Calendar No. 442

100TH CONGRESS
1st Session

SENATE

REPORT
100-222

THE ROBERT T. STAFFORD ELEMENTARY AND SECONDARY EDUCATION IMPROVEMENT ACT OF 1987

NOVEMBER 19, 1987.—Ordered to be printed

Mr. KENNEDY, from the Committee on Labor and Human Resources, submitted the following

REPORT

[To accompany S. 373]

The Committee on Labor and Human Resources to which was referred the bill (S. 373) to strengthen elementary and secondary education programs in the United States, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

I. Introduction 1
II. Legislative consideration and votes in Committee 3
III. Need for legislation and provisions of the bill 6
IV. Regulatory Impact Statement 96
V. Cost estimate 97
VI. Section-by-section analysis 102
VII. Changes in existing law 157

I. INTRODUCTION

S. 373, the Robert T. Stafford Elementary and Secondary Education Improvement Act of 1987, consolidates the federal effort in elementary and secondary education into one omnibus reauthorization Act. It improves the elements of current programs, and makes provision for a series of new initiatives that will serve the nation well. It reaffirms the strong role the federal government plays in education: providing for increased access and equity, providing assistance in areas of national priority, and promoting quality.

S. 373 is an omnibus bill. It reauthorizes the following federal education programs that expire in fiscal years 1987, 1988, or 1989:

79-429

S543-22

1. Chapter 1 of the Education Consolidation and Improvement Act (ECIA), compensatory education for disadvantaged children (formerly Title I of the Elementary and Secondary Education Act);
2. Chapter 2 of ECIA, elementary and secondary education block grants to States;
3. The Magnet Schools Assistance Program;
4. The Impact Aid Program;
5. The Adult Education Act;
6. The Education for Economic Security Act;
7. The Bilingual Education Act;
8. The Women's Educational Equity Act;
9. The Allen J. Ellender Fellowship Program; and
10. The territorial assistance programs for teacher training and for general assistance to the Virgin Islands.

In addition, the legislation creates new programs which provide for the needs of at-risk students, national priorities, and program quality and innovation.

Under the structure of S. 373, all programs are authorized through fiscal year 1993. This will insure that future reauthorizations consider all federal programs in elementary and secondary education outside of vocational education at the same time under one comprehensive education bill.

The Robert T. Stafford Elementary and Secondary Education Improvement Act is a prudent investment in our country's future. There is growing recognition in every sector of society that such an investment in education is critical to our economic strength and national security. The Committee for Economic Development, a blue-ribbon business group, recently issued a landmark report calling on business to press for full funding of Chapter 1 and Head Start. The report, "Children in Need" aptly stated the stake we have in increasing support for education:

> Quality education is not an expense; it is an investment in the future or our nation. The economic miracle of Japan is no accident. The extraordinary value the Japanese place on education has succeeded in producing a population that is almost 100 percent literate and outscores all other nations on almost every test of academic achievement.
>
> If present trends continue without corrective actions, American business will confront a severe employment crisis. This scarcity of well-educated and well-qualified people in the work force will seriously damage this country's competitive position in an increasingly challenging global marketplace. Current projections point to a serious labor shortage in only a few years. By 1990, the impact of new technologies is expected to drive total private-sector demand for employment to 156.6 million jobs, nearly twice that in 1978. If these estimates are only close to the mark, there will be a shortage of over 23 million Americans willing and able to work.

According to a recent survey, voters in California who overwhelmingly passed Proposition 13 would rather see the $700 million in state surplus funds given to the public schools than rebated

to state income-tax payers. A recent Louis Harris poll showed that 77 percent of the public said they would pay higher taxes to improve education.

Access to quality education is increasingly important in a society in transition from an industrial base to an information age. This new economic era will call for higher levels of literacy and skills. Indeed, it is estimated that workers will change jobs as many as six times over the course of their careers. They must therefore be able to adapt quickly by learning new skills.

Education is the single most important determinant of the future welfare of an individual. A quality education that helps support each student along the way toward literacy and achievement is the pipeline out of poverty. Statistics from the U.S. Bureau of Census demonstrate that lifetime income increases as educational levels increase. It is clear that the federal government has no greater role with respect to education than that of assuring access to a quality education for special needs students.

Concerns of access and equity are addressed througout every title of this legislation. The federal commitment to access is carried out chiefly through the Chapter 1 program, the cornerstone of our efforts in elementary and secondary education. A recent report from the Congressional Budget Office, "Educational Achievement: Explanations and Implications of Recent Trends," indicates that this program has accounted for the relative achievement gains of black and hispanic students. S. 373 preserves the general structure of the Chapter 1 program, making modifications in current law that will greatly enhance the program's ability to improve educational achievement. The omnibus legislation carries the intent of Chapter 1 further, by targeting additional funds on the pre-school and secondary school levels. Due to funding constraints, over 75 percent of current funds are spent on grades K through 6. S. 373 has sought to insure that the program begins at the very early stages of a child's development and reaches up through the 12th grade.

The twin themes of equity and access comprise the backbone of the other titles of the legislation throughout the Chapter 2 program, the Magnet Schools program, the bilingual education program, the dropout prevention program, the Women's Educational Equity Act, the Native Hawaiian Americans Act, the Adult Education Act, the Even Start Act, and the Impact Aid Act.

This legislation was fashioned in a climate of consensus and enjoys strong bipartisan support. In fact, S. 373 was reported out of both Subcommittee and Full Committee unanimously. It is the product of extensive hearings and reflects the Committee's serious consideration of recommendations proposed by education-related groups, other community organizations, business, and the Administration.

II. Legislative Consideration and Votes in Committee

S. 373 was introduced on January 20 by Senator Pell and Senator Stafford. It was referred to the Subcommittee on Education, Arts and Humanities, which held a series of fifteen hearings. Hearings were held in Washington, D.C. on March 5, March 16, May 7, June 26, July 16, July 30, August 4, August 6, August 26, and September

18, 1987. The Subcommittee also held regional hearings on February 10 and 13 in Vermont, May 26 in Rhode Island and in Hawaii, and in Utah on August 26. The February 10 and 13 hearings, as well as the March 16 hearing, were held jointly with the House Subcommittee on Elementary, Secondary and Vocational Education.

On October 1, the Subcommittee met to consider S. 373 and reported it, with amendments, to the Committee on Labor and Human Resources.

On October 14, the Committee met to consider S. 373, and reported it, with amendments, by a vote of 16 years to 0 nays. The vote to report S. 373 to the Senate was recorded as follows:

YEAS	NAY
Kennedy	
Pell	
Metzenbaum	
Matsunaga	
Dodd	
Simon	
Harkin	
Adams	
Mikulski	
Hatch	
Stafford	
Quayle	
Thurmond	
Weicker	
Cochran	
Humphrey	

FORMAT OF THE LEGISLATION

As introduced, S. 373 was a simple extension through fiscal year 1993 of the authorizations of Chapters 1 and 2 of the Education Consolidation and Improvement Act. Amendments made at the October 1 and 14 mark-up sessions entirely changed the bill and gave it a new framework and expanded scope and content. In the months preceding the mark-up of S. 373, several Committee members put forward individual reauthorization bills that provided the basis for the omnibus S. 373. These included:

—S. 38, A bill to increase the authorization of appropriations for the Magnet Schools Assistance program for fiscal year 1987, introduced by Senator Moynihan;

—S. 303, The Jacob K. Javits Gifted and Talented Children and Youth Act, introduced by Senator Bradley;

—S. 319, The Secondary School Basic Skills Act, introduced by Senator Bradley;

—S. 360, A bill to improve the education status of Native Hawaiians, introduced by Senator Matsunaga and Senator Inouye;

—S. 367, The Targeted Educational Assistance Act, introduced by Senator Pell;

—S. 629, The English Proficiency Act, introduced by Senator Bingaman;

—S. 838, The Computer Education Assistance Act of 1987, introduced by Senator Lautenberg;
—S. 778, The Star Schools Program Assistance Act, introduced by Senator Kennedy;
—S. 841, The International Education for a Competitive America Act, introduced by Senator Dodd and Senator Simon;
—S. 913, The Quality in Education Act of 1987, introduced by Senator Pell;
—S. 1004, The Education Competitiveness and Improvement Act of 1987, introduced by Senators Dole and Stafford;
—S. 1005, The Elementary and Secondary Education Improvement Act of 1987, introduced by Senator Stafford;
—S. 1157, The Family-School Partnership Act, introduced by Senator Bradley and Senator Kennedy;
—S. 1199, The Youth Suicide Prevention Act of 1987, introduced by Senator Lautenberg;
—S. 1226, The Secondary School Basic Skills Improvement Act, introduced by Senator Danforth;
—S. 1227, The Workplace Literacy Act of 1987, introduced by Senator Chiles;
—S. 1229, The Adult Education Act Amendments of 1987, introduced by Senator Quayle;
—S. 1238, The Bilingual Education Act Amendments;
—S. 1348, The Office of Comprehensive School Health Education Act of 1987, introduced by Senator Bingaman;
—S. 1373, The Federal Correctional Education Assistance Act, introduced by Senator Pell;
—S. 1585, The Even Start Act, introduced by Senator Chafee;
—S. 1699, The Elementary and Secondary Education Reform Amendments of 1987 Teacher Training and Improvement Act, introduced by Senator Simon;
—S. 1700, The National Assessment of Educational Progress Improvement Act, introduced by Senator Kennedy;
—S. 1701, The National Assessment of Educational Progress Amendments of 1987, introduced by Senator Hatch;
—S. 1778, The Rural Education Opportunities Act, introduced by Senators Harkin, Stafford, and Adams; and
—S. Con. Res. 43, a concurrent resolution introduced by Senator Stevens to encourage State and local governments and local educational agencies to provide quality daily physical education programs for all children from kindergarten through twelfth grade.

These bills were used as the source of amendments to S. 373. The various components were folded into the omnibus bill by a unanimous consent request during the mark-up.

III. Need for the Legislation and Provisions of the Bill

Chapter 1—Financial Assistance to Meet Special Educational Needs of Children

A. Background and need

1. Introduction

Chapter 1 is the cornerstone of the federal effort in elementary and secondary education. Studies at the local, state, and federal levels indicate that the Chapter 1 program improved the reading levels of participating children in comparison to those who have not participated. Studies by the National Assessment of Educational Progress have shown that reading scores of disadvantaged students have risen dramatically over the last twelve years and that those gains are largely attributable to Chapter 1.

In its first year, appropriations for this program were $960 million. Today Chapter 1 serves close to 5 million children or one out of evey nine students enrolled in elementary and secondary schools at an appropriation level of $4 billion. Close to 75 percent of the funds are spent on grades K–6. Almost 35 percent of Chapter 1 students live in rural areas, 30 percent in small cities, and 24 percent in large urban areas. Approximately 3.5 million children receive reading services through the program and about 2.2 million receive mathematics instruction. About 51 percent of the participants are White, 22 percent are Black, and 16 percent are Hispanic.

About 90 percent of the Nation's school districts now participate in Chapter 1 (the program was renamed when the Education Consolidation and Improvement Act of 1981 made substantial revisions in it). Funds are distributed to local educational agencies (LEAs) on the basis of a formula which counts school-aged children from low-income families. School districts are required to focus the funds on the schools with the highest number or percentage of poor children. This distribution method was originally selected and has been retained because: (1) as the Congressionally-mandated National Assessment of Chapter 1 has recently noted, there is a correlation between poverty and educational disadvantage which increases as the concentration of poverty and length of time in poverty goes up; (2) schools serving low-income areas are less likely to have the resources to provide supplementary services; and (3) the census poverty data are one of the few types of nationally-uniform data available. However, once the Chapter 1 funds reach the school building, children are selected for participation based on educational need, not income.

Chapter 1 has always been a program administered largely by State educational agencies (SEAs) and with services delivered by LEAs or local educational agencies. State and local agencies are required to assist only those eligible disadvantaged children who are most in need. Funds provided under Chapter 1 must be used for services supplementary to the regular school program. Programs must provide for the participation of eligible children attending nonpublic schools. But within these fiscal and targeting restraints, local and State agencies have full discretion to design programs, in-

cluding curriculum, and method of instruction, to coordinate with the regular program.

The majority of funds under Chapter 1 are distributed on a formula basis to State and local educational agencies. In addition, the law provides for several special State-operated programs for the handicapped, for children of migratory workers, and for neglected and delinquent children.

2. Effectiveness of Chapter 1

The following findings of the National Assessment of Chapter 1, the mandated Congressional study conducted by the Department of Education, show that Chapter 1 is targeted in the following manner:

About three-fourths of all Chapter 1 students are enrolled in districts and schools with poverty rates above the national midpoint.

Districts select schools characterized by high percentages of poor students, judged on local standards. Districts generally select students who are low achievers by both local and national standards.

Among the nation's elementary schools with very high poverty rates, close to 90 percent receive Chapter 1 services.

Among the districts receiving Chaper 1, participating students are more likely to reside in districts with high poverty rates than in districts with low rates of poverty.

With regard to student achievement, the report found that:

Students receiving federal compensatory services show larger increases in achievement than comparable students not receiving these services.

The achievement of disadvantaged students have improved since 1965, especially in reading, relative to the achievement of the general population.

A report on reading conducted by the The National Assessment of Educational Progress found that:

The benefits of Title I programs and Head Start programs have been reflected in the improved reading proficiency of children studied at age 9, and improvements at age 17 can be attributed to this additional educational assistance.

The Department of Education's Chapter 1 Evaluation and Reporting System shows upward movement in the percentile ranks of Chapter 1 students in reading and mathematics for every grade except twelfth grade.

The Congressional Budget Office report on Educational Achievement noted that:

Gains in test scores of students in the Chapter 1 program exceed those of comparable students by roughly 10 to 30 percent, depending on age and subject.

3. Need for the Program

Currently, Chapter 1 is able to serve only 45 percent of students who are eligible for compensatory education services. And, the need for this program will grow even further in light of the fact that the number of children in poverty is on the rise.

The Chapter 1 program has lost ground since 1980. In constant dollars, the program has suffered a cut of over 17 percent over the past seven years. Participation in the Chapter 1 program has declined as a result not only of budget cuts, but also of the absence of regular cost-of-living increases. In fiscal year 1987, the program served 4.9 million in contrast with 5.4 million children served in 1980–81.

It costs $500 to provide a student a year of compensatory education. On average, it costs over $3,000 when the student repeats a grade. The Committee believes that the investment in compensatory education is cost-effective and critical to our national interest. Failure to make this investment will result in costs which society will be forced to bear in later years. These costs . . . loss of productivity, welfare payments, crime, and ungenerated taxes . . . are many times the cost of a sound education. Industry spends over $10 billion per year to train its workforce. The military spends $100 million per year to train new recruits.

This cost to society was perhaps best described in testimony from the major leaders of industry presented before a joint hearing of the Senate Subcommittee on Education, Arts and Humanities, and the House Subcommittee on Elementary, Secondary and Vocational Education:

> Underinvestigating in Chapter 1 has severe consequences. David Kearns, Chairman and CEO of Xerox, for example, has estimated that the cost to private industry of retraining American workers who are not adequately educated in basic reading, writing, and computational skills is two billion dollars per year. Other studies show that each year we incur an additional $26 billion in social program costs as a result of our failure to graduate another one million at-risk students. This is merely the visible cost: it excludes foregone tax revenues and lost productivity. Some estimate that society loses as much as $200 billion for each additional cohort of dropouts.

Explanation of legislation

Chapter 1 is currently authorized through fiscal year 1987. However, this law is automatically extended for one year under the General Education Provisions Act. S. 373 therefore provides for an authorization beginning in fiscal year 1989 for the period through fiscal year 1993. While Chapter 1 made significant changes to the administrative structure of Title I, various sections of Title I continue to apply to current law through cross-reference. For purposes of clarity, S. 373 rewrites both Chapter 1 and Title I, merging both into one single authorizing Act.

The reauthorization legislation makes minor modifications to current law that will enhance its ability to serve Chapter 1 eligible students effectively. These revisions can be grouped into 6 major themes: targeting, improvement, innovation, parental involvement, private school participation, and expansion.

S. 373 represents the first major reauthorization of compensatory education since 1978. The Education Consolidation Improvement Act that amended Title I in 1981 was enacted as part of the Omni-

bus Budget Reconciliation Act of 1981. Although this process significantly changed the Title I statute, it was in the form of an amendment, and was not the result of reauthorization hearings.

The Committee, thus charged with the first major reauthorization in close to 10 years, made considerable effort to examine the operation of the program, the recommendations of various agencies, organizations, and interest groups, and evaluations of the program in fashioning the reauthorization bill.

Targeting

The Committee has not made significant changes to the basic grant formula. The legislation, however, has updated several provisions in the formula which will more accurately reflect the numbers of eligible children in each school district. This includes a deletion of the Survey of Income and Education which has not been updated since 1974, and an update of census poverty criteria from 1970 to 1980.

The Committee has responded to the need to provide greater targeting of resources under Chapter 1 by authorizing a new concentration grant program. While the General Accounting Office and others have found that dollars under the basic program are well-targeted within the constraints of the law, the National Assessment of Educational Progress has shown a continued strong relationship between low-achievement and concentration of poverty. The basic program by all accounts continues to provide a broad blanket of assistance for poor children in nearly every school system of the nation. The new concentration grants, however, are designed to augment that basic aid in school systems with unusually high numbers of percentages of poor children.

For purposes of targeting, the Committee bill would provide $400 million for special targeting, only after the basic grant appropriation equals or exceeds $4.3 billion. (The current FY87 funding level for Chapter 1 is $3.9 billion). After the appropriation level reaches $4.7 billion, 10 percent of total appropriations will be allocated according to the concentration grant formula, and the remaining 90 percent will be allocated according to the basic grant formula.

The concentration formula would distribute half of its funds to the states on the basis of the basic Chapter 1 formula, and half according to each state's share of the nation's total number of children in counties with at least 5,000 or 20 percent poor. This 5,000 or 20 percent is the same eligibility criteria under the current concentration grant formula. In both cases, each state would receive a floor of one half of one percent of amounts reserved.

In states which receive in excess of 1 percent of the concentration grant funds, the monies will be distributed by formula to counties with more than 5,000 or 20 percent poor. Only LEAs within eligible counties which meet the same county-wide eligibility would then share the funds on a proportionate basis. In the case where no county is eligible, LEAs which alone are eligible under the same criteria would receive the funds. In states receiving less than 1 percent of the funds, the monies would be distributed by formula first to LEAs in counties which meet the 5,000 or 20 percent eligibility criteria, then to LEAs which meet the eligibility criteria but which are not in counties which meet the eligibility criteria, and finally

to LEAs in rank order of need based on the number of children in poverty, so long as their poverty count is above the statewide average.

Funds provided under this formula are used in the same manner as those under the basic grant and do not require separate accounting or programming.

The concentration grant formula is the result of many hours of work to find a proper balance among regional urban/rural and state interests. The Committee believes that such a balance has been struck with this compromise approach. By definition, a concentration formula cannot benefit everyone—and to do so would not meet the intent of the Committee to provide extra assistance to LEAs with unusually high percentages and numbers of children in poverty.

The Committee believes that further clarifications regarding the selection of schools and children are necessary to insure that the neediest children are served. S. 373 therefore contains provisions to make clear that Chapter 1 assistance is directed to children of greatest need.

The reauthorization bill requires that LEAs rank order schools above the statewide average of poverty based on need determined by number of eligible children, and that LEAs provide services to these schools according to their rank order. LEAs may serve all schools which have 25 percent or more eligible children.

LEAs may serve all school attendance areas if they have uniformly high concentrations of poverty, but only if the variance among poverty rates is 5 percent or less. If in one year, a school is no longer considered eligible, it may continue to be considered eligible for one additional year only.

The reauthorization bill requires that within schools operating Chapter 1 programs, schools target the program on eligible children of greatest need. Such determination is to be based on an educational needs assessment of all children, which shall be objective, and may be based on test scores, achievement levels, and other written and oral tests.

The bill also emphasizes that Chapter 1 funds may not be used for handicapped or limited English proficient services that are otherwise required by law. This language is intended to clarify the fact that Chapter 1 funds may not be used to supplant funds that are otherwise required to be spent. However, it is by no means the intent of the Committee to exclude handicapped students or limited English proficient students from the Chapter 1 program. This section is not intended to preclude children with limited-English proficiency from receiving Chapter 1 services, due to the fact that their educational deprivation may stem from that limited-English proficiency. Likewise, the Committee is concerned that a school district not be excessively burdened to prove that a child with limited-English proficiency is educationally deprived and deserving of Chapter 1 services. Similarly, handicapped students are still eligible to receive services if their needs are based on educational deprivation and are not solely the result of a handicapping condition.

Program improvement

The Committee added several provisions to current law which will promote quality in the Chapter 1 program by encouraging innovation and improvement.

The bill encourages innovation by enabling LEAs to reserve up to five percent of their grant for innovative programs. Many Chapter 1 programs across the country have had considerable success. This provision would enable school districts and schools to implement and adapt these successful models. This provision is intended to encourage school districts to approach instruction through new or alternative methods which may improve program quality.

Such innovative projects shall be limited to: continuing services to children who were eligible for services in any preceding year in order to maintain their progress; extending services to eligible children transferred to ineligible areas as part of a desegregation plan; incentives to schools that have had considerable success; training of teachers and librarians who provide services for eligible children but who are not paid by Chapter 1 funds, programs which integrate Chapter 1 activities into the regular classroom program, programs which encourage parental involvement, and programs which encourage community involvement.

The Committee has added a requirement that the LEA include in its application a description of the procedures it will undertake to insure regular and consistent coordination with the regular school program. While the Chapter 1 program continues to allow the LEAs the flexibility to design services, the Committee believes that Chapter 1 programs should be integrated as much as possible with the regular school program and that, in turn, the regular school program should take into account the instruction provided under Chapter 1. This will help to insure that the Chapter 1 program functions in conjunction with the whole school rather than apart from it.

The Committee has included additional procedures to insure that schools with inadequate achievement or declining achievement levels develop policies to correct these problems. At least every three years, the LEA is required to conduct an evaluation of the effectiveness of programs with respect to the achievement levels of students based on a basic skills assessment and an assessment of more advanced skills. Such evaluation shall be submitted to the State. In any year in which an evaluation is not conducted, the LEA shall conduct a review of the program's effectiveness in improving student achievement. In several sections throughout the bill, the goals of the program are stated in terms of basic skills and more advanced skills. These advanced skills include reasoning, comprehension, and analysis. The Committee has added this language in recognition that the goal of the Chapter 1 program should not be limited to basic skills instruction, but should also provide the compensatory education necessary to enable a student to succeed in school.

In requiring that the desired outcomes or goals for Chapter 1 eligible children be stated in terms of the basic and more advanced skills which the LEA has determined all children should master, the Committee is seeking to insure that disadvantaged children

served by Chapter 1 are not subjected to subsantially different academic expectations than other students. By using the mastery of these skills as part of the basis for assessing students and evaluating the program, the LEA will then be able to focus the program on students who most need assistance, i.e., those who are having the greatest difficulty in mastering the skills they were expected to attain.

Educationaly deprived children who are also either limited-English proficient or handicapped should be assessed, identified, and selected on the same basis as other children, with specific attention to insuring that the full range of their needs in relation to the program goals is assessed, and not just their English proficiency or handicap; that their English proficiency or special needs related to their handicap have been assessed, so that they are not confused with other needs under this chapter; and that the assessment measures are valid for the specific population assessed.

The State educational agency is required to conduct an evaluation every two years of the effectiveness of Chapter 1 program and shall inform the LEA in advance of the criteria to be used for evaluation. Each State application to the Secretary shall contain a description of the criteria used to evaluate programs conducted by local educational agencies and by states. Such an assessment shall be based on measurements, techniques, or instruments that are generally accepted as valid and should take into account other factors which impede educational achievement, such as the educational disadvantage of the student; the income of the family; the size, scope, and quality of services provided under Chapter 1; and other factors which are relevant to carrying out a Chapter 1 program.

In a case where the State assessment of achievement differs from the local assessment, the State is required to submit, as part of its application to the Secretary, the reasons for the differences, including the differences in measurements used.

If a school shows inadequate improvement or a decline in aggregate achievement of children served under Chapter 1, the local educational agency shall develop and implement a plan for program improvement. If after two years, the aggregate achievement does not improve or declines, the local educational agency shall develop a plan in coordination with the state educational agency for program improvement. If, after two years of implementation, the state determines that there continues to be no improvement in achievement or a decline in achievement, the State shall take corrective action and implement an appropriate plan for program improvement. States may take corrective action needed regardless of whether or not the program improvement funding is appropriated or available.

The Committee is aware of the important role that the State can play with respect to program improvement. Such program-improvement activities may include teacher training programs, curriculum development, adaptation and implementation of programs that have proven successful in other schools or school districts, and the development of innovative strategies to enhance parental involvement. The Committee believes that such assistance should be provided as an addition to the current efforts carried out at the local level.

The Committee has therefore added a new authorization for State educational agencies for program-improvement activities. This authorization becomes effective at such time as total Chapter 1 appropriations reach $4.8 billion. Once the authorization is triggered by this appropriation level, 0.5 percent of the amount is allocated to the State and its local educational agencies for the first two years, and 1 percent of that amount thereafter. This State program improvement allocation shall be in addition to the current provisions for State administration.

State educational agencies currently receive 1 percent of the amount allocated to the State and its local educational agencies for State administration. Under current practice, the State administration money is appropriated as a line item in addition to the basic grant program. It is the intent of the Committee that the additional monies provided to the States for program improvement not be used under any circumstances to carry out the functions under State administration.

State program-improvement money is to be used in the following manner: the State educational agency shall submit a plan to the Secretary to identify schools in need of program improvement and the activities with which the State shall assist the schools to improve achievement. Each plan for assessment, identification, and program improvement shall be developed in consultation with the local educational agencies. It is the intent of the Committee that these provisions enable States to assist local educational agencies in implementing necessary and innovative approaches to program improvement, therefore the program improvement funds must be spent on local activities.

The Committee has made two additional changes in State administrative provisions. It has increased the minimum amount per State from $225,000 to $350,000. States receiving minimum payments have not received increases in several years. Such a minimum would also apply to the State program-improvement allocation, except that in the first two years, when the authorization is 0.5 percent, the minimum would be $160,000. In addition, the legislation requires that no amount above 15 percent may be used for indirect costs. The Committee is aware that some States have allocated in excess of 40 percent for indirect costs and has therefore placed a cap in statute.

Finally, the Committee has revised requirements for schoolwide projects to enable more schools to operate Chapter 1 programs under this framework. Under current law, schools which have more than 75 percent poor children may use Chapter 1 dollars for schoolwide compensatory education programs. However, schoolwide projects have rarely been implemented because of an additional requirement that schools match the effort per child that is provided under Chapter 1 assistance. The Committee recognizes that the schoolwide project approach was designed to permit schools with substantial percentages of children in poverty to address more effectively their compensatory education needs by delivering these services to all children in the school. In order to encourage this approach, the Committee has therefore deleted the matching requirement. Schoolwide projects may be used to provide compensatory services to all students, to train teachers, reduce class size, encour-

age parental involvement, and improve coordination with the regular curriculum.

In order to continue to be eligible to carry out a schoolwide program, the school must demonstrate that the achievement level of eligible children exceeds the average achievement of participating children districtwide or the aggregate achievement of Chapter 1 children in the school in the three fiscal years prior to implementation of the schoolwide program.

Private school participation

Under current law, Chapter 1 requires that eligible children in private schools be provided Chapter 1 instruction. In 1985, the Supreme Court ruled in *Aguilar* v. *Felton* that public school teachers could not instruct private school students on private school grounds. To comply with the Supreme Court's decision, schools have had to implement costly, disruptive, and creative procedures to serve private school children.

The Committee strongly believes that these eligible children should be served. Service to eligible private school children has been a provision in law since its enactment in 1965. The Committee is very concerned that efforts to comply with the Supreme Court ruling have resulted in a decline of about 35 percent in the number of private school children who are served.

The Committee has therefore added an additional authorization of $50 million in fiscal year 1989 and "such sums as may be necessary" through 1993 to assist school districts in complying with the Supreme Court decision. This new authorization is in the form of "capital expenses" and is to be used solely for the additional cost of delivering services to private school children through alternative means. Funds under the capital expense allocation shall be distributed to States by formula based on the number of private school children who were served under Chapter 1 prior to 1985. State educational agencies shall distribute funds to LEAs based on need; and LEAs which have met their pre-*Aguilar* service levels may be reimbursed for the additional costs.

In addition, the Committee has added two new provisions to current law to facilitate the delivery of compensatory education to private school students. One is a requirement that the Department, within 120 days, develop and implement written procedures for receiving, investigating, and resolving complaints relating to an LEA's failure to provide equitable services to eligible private school students. The second is a requirement that LEAs consult on a timely and meaningful basis with appropriate private school officials to make provision for serving eligible private school students.

Parental involvement

The Committee believes that parental involvement has a strong impact on the educational achievement and success of a Chapter 1 student. The Committee has therefore included provisions in the bill that will encourage and promote parental involvement. This is carried out through additional language indicating how parents are to participate in designing, planning, and implementing Chapter 1 programs and by making provision for parent training programs

and other innovative methods for encouraging parental involvement.

Throughout Section 1016 and other sections of the bill, "consultation" with parents is specifically mandated. The Committee expects the consultation with parents to be organized, systematic, ongoing, informed, and timely in relation to programmatic decisions. Timely response to parent recommendations is also an essential part of consultation.

In developing programs, activities, and procedures to meet the goal of training parents, local educational agencies should insure that the training effectively covers topics needed to help parents carry out their responsibility under this section, including understanding the program and its legal requirements, working with teachers and with other parents, monitoring student progress, understanding and evaluating curriculum, and working with their children at home.

The legislation requires that LEAs develop written policies after consultation and review by parents to insure parental involvement in program planning, design, and implementation. Programs, activities, and procedures for involvement shall be of sufficient size, scope, and quality. The Committee intends to insure regular organized involvement at both the school and district level. Parents are to be given the opportunity to advise in the selection of program goals and objectives, procedures for selecting and assessing schools and students, development of educational strategies, project implementation, and program evaluation. The LEA shall provide reasonable support for parental involvement activities as parents may request.

Policies developed for parental involvement are to be made available to parents of participating children. The Committee expects each LEA to develop, with the involvement of parents, its own methods for ensuring that the policy is effectively distributed and understood by all such parents. Providing policies only to parents who ask for it without publicizing their availability, for example, would not constitute making it available.

The LEA is to provide opportunities for regular meetings of parents to formulate suggestions regarding the program, if the parents of participating children desire. At such meetings and other activities, the parents of participating children may choose to involve other interested people such as former Chapter 1 parents whose children are no longer in the program. These former Chapter 1 parents often make valuable contributions to parental involvement activities because of their longer experience with the program and their interest, provided that the parents of participating children desire their assistance.

In addition, the definition of "parent" includes a person standing *in loco parentis*, such as a relative or legal guardian.

Parents should be involved in the planning of the initial notice and meeting. Because the parent involvement policies address parental involvement at the local and districtwide level, the local educational agency may find it workable to hold the initial meetings at the districtwide and building level.

The Committee expects that the initial meeting shall provide parents with information about the parents' opportunity to be in-

volved in the development of the policies, programs, activities and procedures for ongoing parent involvement and, specifically, the other requirements under section 1016. The meeting shall also provide the parents an opportunity to meet each other so that they may establish their own mechanisms for communication among themselves.

With respect to parent-teacher conferences, the Committee expects the local educational agency to take reasonable steps to reach those parents for whom there may be particular barriers to involvement, such as work or child-care obligations, transportation, and limited-English proficiency.

In annually evaluating the effectiveness of parental involvement, the local educational agency, in consultation with parents, is to attempt to identify the barriers to greater participation and determine possible steps to overcome those barriers. This evaluation should attempt to determine, among other things, the extent to which the goals for parental involvement are being achieved.

Basic skills for secondary school students

The Committee is concerned that Chapter 1 programs rarely reach into the secondary grades. Over 75 percent of Chapter 1 programs are in grades K through 12. Only 6 percent of students served are in grades 10 through 12. Many secondary school students lack the basic skills to complete their education and drop out. Many others, according to NAEP, stay in school but graduate with inadequate reading, writing, and comprehension skills. Both groups enter a job market ill-prepared and sorely lacking in basic skills. Industry, and then the American public, eventually picks up this cost.

Research indicates that remedial programs work most effectively in the early years. Therefore, it is appropriate to give elementary students priority in receiving Chapter 1 assistance. However, given the basic skills deficiency among our secondary school students, we must begin to devote resources to help them acquire essential basic skills. There is a strong connection between proficiency in literacy and quantitiative skills and employment opportunities. Research shows that persons with more proficient literacy skills achieve superior employment records, avoid prolonged unemployment and earn higher hourly wages than persons with lesser literacy skills. If we are going to give disadvantaged youngsters employment opportunities, then we must assist them in acquiring proficiency in basic skills.

To address this need, the bill authorizes a new program to support basic skills activities at the secondary school level. The Committee has constructed this targeted assistance in two ways. In the first two years of operation, the bill authorizes a $200 million discretionary grant program under Title XIII that is described in more detail in that section. In fiscal year 1990, the program is administered as a state grant program, and the money flows to the states on a formula basis.

These provisions will not divert Chapter 1 funds from elementary schools. They will simply make additional funds available to meet the special needs of educationally disadvantaged secondary school students. As with Chapter 1, assistance would be targeted at

local educational agencies with high concentrations of low-income children.

As a state grant formula beginning in fiscal year 1990, three percent shall be reserved by the Secretary for migrant program grants. Of the remainder, each state shall receive a grant from amounts available under this Part in proportion to their Chapter 1 allocation, and no state shall receive less than one-half of one percent of the amount appropriated. The state shall allocate funds to the local educational agencies based on the percentages or numbers of secondary school-aged poor children and on the greatest need for services, including such factors as the dropout rate. The Committee recognizes the strong link between insufficient basic skills instruction and dropping out of school. The legislation therefore permits local educational agencies to use up to 50 percent of its allocation for dropout programs. This will enable those local educational agenices which have received grants under the School Dropout Demonstration Assistance Act under Title VIII to continue this important work through assistance provided under Part B.

Secondary school students eligible under Part A for compensatory education services, including private school students, are eligible for assistance under this Part in the same manner of service delivery as provided under Part A.

There are many good ideas about how to improve basic skills of secondary school students. This Part would support these innovative initiatives to meet the special needs of such students and to help them attain grade level proficiency in basic skills.

It is not the intent of the Committee to use education funds authorized under this Part for health services. Such services are funded through various federal, state, and local health programs, and it is not the intent of the Committee either to duplicate or to supplement such funding through this Part.

Other provisions

Rulemaking—Included in S. 373 is an amendment which directs the Secretary to promulgate regulations for this legislation through a process called negotiated rulemaking. This procedure was used by the Environmental Protection Agency to develop regulations for the Asbestos bill. It was strongly endorsed by participating members of the education community.

In negotiated rulemaking, the lead agency invites interested and affected parties to participate in the development of regulations from the initial stages of this process. The rules which are published in the FEDERAL REGISTER include the compromises reached by this negotiating body as well as the differences which remain unresolved. Authority to promulgate final regulations continues to be the prerogative of the lead agency, in this case the Department of Education.

It is the Committee's view that the Negotiated Rulemaking Process is an appropriate method by which the Department of Education shall promulgate regulations to implement S. 373. Experiences of other agencies point to shortened regulatory timelines and a greater sense of ownership and therefore compliance with the law by those entities affected by the regulations when these procedures are utilized. Finally, the Committee urges the Department to in-

clude all interested and affected parties in this process and to negotiate in good faith those items deemed to be relevant to this procedure.

The Committee has included an amendment in S. 373 directing the Department of Education to utilize negotiated rulemaking for two reasons. First, inviting the education community to work on developing regulations insures their understanding and cooperation in implementing program changes. Second, other agencies utilizing this process have promulgated regulations far more expeditiously and have been extremely satisfied with the outcomes.

In June of 1982, the Administrative Conference of the United States issued Recommendation 82-4, titled "Procedures for Negotiating Proposed Regulations". In this document they state:

> Participants in rulemaking rarely meet as a group with each other and with the agency to communicate their respective views so that each can react directly to the concerns and positions of the others in an effort to resolve conflicts. Experience indicates that if the parties in interest were to work together to negotiate the text of a proposed rule, they might be able in some circumstances to identify the major issues, gauge their importance to the respective parties, identify the information and data necessary to resolve the issues, and develop a rule that is acceptable to the respective interests, all within the contours of the substantive statute.

The Committee intends that final authority to promulgate regulations rests with the Department of Education. The Negotiated Rulemaking process simply directs the Secretary to invite parties interested in the Chapter 1 Program to participate in the development of regulations regarding the implementation of this reauthorization. The Department of Education has complete authority to select the participants in this process. Furthermore, the Department determines what regulations will be subject to this process. Finally, the Department is not bound by the consensus achieved by the negotiating body.

Fiscal requirements

S. 373 makes several changes or clarifications to current law:

With respect to comparability, S. 373 adds new provisions that explicitly state what is currently implied, or offers additional guidance about how to implement comparability. LEAs are required to implement the comparability policies which have been filed as assurances with the State; to develop procedures to comply with comparability; exempts LEAs with only one building per grade-span from comparability requirements; and requires SEAs to monitor comparability and to withhold funds from LEAs which are not in compliance only to the degree by which they have failed to comply.

The bill reinstates the provision in Title I which prohibits States from taking Chapter 1 funds into consideration when determining an LEA's eligibility for or amount of State aid.

S. 373 clarifies which special State or local programs are excluded from the anti-supplanting and comparability requirements and reinstates the Title I provision that the Secretary or the SEA

approve the applicable State or local program in advance. It further reinstates the provision in Title I which requires that a local educational agency use funds to supplement, not supplant funds that are made available from non-Federal sources, including state compensatory education programs.

Finally, the legislation includes a new provision to phase in a limitation on the amount of funds an LEA may carry over from one year to the next. In FY 89, carryover will be limited to 25 percent and then to 15 percent in the following years. There is an exemption for LEAs with allocations of less than $50,000, and any district may request the State to waive the limit with proper justification. This limitation will not apply in any fiscal year in which supplemental Chapter 1 funds are appropriated.

Policy manual

The Committee has reinstated a provision in Title I to require the Secretary to develop and distribute a National Policy Manual for Chapter 1. In explaining each requirement, its purpose, and its relationship with other applicable requirements, the manual should include appropriate references to its legislative history. In preparing model instruments for State monitoring of programs, the Secretary should include instruments for gathering information about program operations directly from parents.

Studies

The bill authorizes $4 million in fiscal year 1989, with 5 percent increases for each fiscal year therafter, to carry out two studies, and mandates that the General Accounting Office conduct a third.

Section 1461 requires the Secretary to conduct a national longitudinal study of eligible children participating in Chapter 1 programs. The Secretary is authorized to contract with any qualified organization and is encouraged to coordinate measurements with those used by the National Assessment of Educational Progress where applicable. The study shall investigate the impact and effect on students of participation in Chapter 1 programs, and compare the educational achievement of students who have participated with those who are eligible but did not receive services. The study shall take into acount other factors which impede or enhance success. It is the intent of Congress that this study be as comprehensive as possible, and include rural, urban and suburban areas and be of sufficient size and scope to relfect an accurate assessment of the program's effectiveness. The Committee recognizes, that a longitudinal study should be conducted over 10 years to be used as an accurate measure. Funding under this Act is authorized only through 1993 as all other programs authorized expire at such time. However, the Committee has directed that the final report be submitted to Congress in 1997 and anticipates that future reauthorizations will provide for an extension of the study through that time.

Section 1462 of the bill directs the Secretary of Education to conduct a study of the methods for allocating funds among the States in all federal elementary and secondary education assistance programs administered by the Department of Education.

The Committee recognizes the complexity of determining an equitable allocation of federal education funds. The Secretary of Edu-

cation is directed to study the various methods and formulas used for allocating funds. Of interest to the Committee are such questions as whether there is a minimum amount necessary to run a federal education program effectively and whether state and local governments which are making greater tax and fiscal efforts to support education within the State should be rewarded through the allocation formula.

Finally, the Committee directs the Comptroller General of the United States to conduct a study of the State Operated Program for Handicapped Children under Chapter 1. This study must be completed by January 30, 1989, to enable the Subcommittee on the Handicapped to utilize the information during the reauthorization of the discretionary programs of the Education of the Handicapped Act. At that time, the Subcommittee on the Handicapped will thoroughly examine the relationship between the Chapter 1 program for handicapped children and Public Law 94-142. The Committee is aware of the diversity of services offered to eligible children in the fifty states with funds provided under this program. Therefore, the Committee intends that the GAO examine a cross section of states both geographically and in terms of their utilization of Public Law 89-313 funding.

Definitions

The Committee uses various terms throughout the bill such as "books", "curriculum materials", "instructional supplies", "instructional equipment and materials", and "educational materials", the acquisition of which are eligible for federal funding. These terms should not be limited to traditional notions of a bound "book". It is the Committee's intent that these terms be expansively construed to include literary, pictorial, or graphic works, whether or not in book form or presented in the form of text matter. "Instructional materials" and similar terms therefore would include electronic and other innovative means of presenting materials prepared for the purpose of use in systematic instructional activities. The Committee intends that the full range of "instructional materials" would be eligible for acquisition under any of these terms, unless otherwise specified, including but not limited to books, workbooks, computer software and materials for instructional purposes in use of this software, tests, including evaluation and scoring materials, related support materials for students and teachers, such as teaching materials to supplement textbooks, instructional manuals, and teacher aides, and audio-visual materials, such as laser discs, phone records, and filmstrips prepared for use in programs of systematic instruction rather than for a general readership.

The Committee recognizes the rapid spread of the use of video technology across all sectors of American life. The Committee encourages the use of video technology as a powerful learning tool. Given the fact that there are those who respond better to visual aids, video technology should be used to develop and improve basic literacy skills as well as higher level critical thinking skills such as writing, listening, creativity, and comprehension development. It, therefore, believes that when regarding the use of instructional equipment, software, and published materials that videotapes and laser discs be included in that group.

CHAPTER I

Part C—Programs operated by State agencies

Subpart 1—Programs for migratory children

The Committee reaffirms its strong support for education programs that meet the needs of children of migratory workers. The Chapter 1 program of grants to State Education Agencies has been in effect for two decades and currently serves about 350,000 migrant children nationwide. These children are not only economically and educationally disadvantaged but also confront the additionally serious problem of having to attend several different schools in a single school year because their families are part of the migrant workforce.

The Committee is aware of the success that marks this program. More migrant children are attending school; fewer are dropping out; and those who do remain in school are making considerable gains in achievement. Also, through the Migrant Student Record Transfer System (MSRTS) we have a valuable national data bank on these students. That information has proved vital not only for the education of migrant children but also in other areas. For example, in the health area, the existence of the MSRTS was crucial in providing the information which led to the location and treatment of children with infectious diseases. This would not have been possible without this important Chapter 1 program.

S. 373 reauthorizes this valuable migrant education program without basic alteration. The Committee, however, does wish to note several changes that are being made which, in the Committee's opinion, will lead to an even more effective program.

First, migratory agricultural dairy workers are specifically mentioned in the legislation. This will remove any doubt regarding the eligibility of the children of such workers to participate in this program.

Second, where current law counts children between the ages of 5 and 17 for funding purposes, S. 373 stipulates that children between the ages of 3 and 21 may now be included. This will bring the funding count into line with the eligibility for services, which heretofore has included children between the ages of 3 and 21. This change also reflects the Committee's desire that increased attention be paid to the pre-school needs of migrant children.

Third, S. 373 allows a 5% error rate in the determination of student eligibility by the State Education Agency. The changes not only bring the migrant education provisions into line with other Federal programs but also permit some flexibility in counting eligible children. This is necessary because information on these children comes from a variety of sources and there is some inconsistency in the reliability of those sources.

Fourth, the Committee strongly believes that there is a need for greater coordination of this migrant education program with other federal education programs and other federal programs of help to migrant families. Accordingly, S. 373 contains specific language regarding the coordination of the Chapter 1 program with other federal programs.

Subpart 2—Programs for handicapped children

The Committee believes that the Chapter 1 program for handicapped children should be retained in law as a distinct source of Federal support to SEAs for providing services to handicapped children. Amendments to the Chapter 1 program for handicapped children require greater conformity with Public Law 94–142 in terms of reporting requirements, assurances, state administration, and data collection.

The Chapter 1 program for handicapped children, enacted in 1965, as part of the original Title 1 (P.L. 89–319) authorizes compensatory services to handicapped children for whom a State agency is directly responsible for the provision of free public education. The purpose of this program (hereinafter referred to as the P.L. 89–313 program), is to provide federal assistance to states to help with the education of handicapped children in State-operated schools or in schools supported by a state agency through contract or other arrangement.

In addition, under specified circumstances, the state receives Federal support for the education of these handicapped children who transfer to local educational agency (LEA) programs. A child transferring from a state-operated or supported school is eligible to be counted as an LEA transfer as long as that child continues to receive special education and related services. The LEA transfer provisions were adopted to encourage the placement of handicapped children in local schools rather than institutional settings.

Funds received by State educational agencies (SEAs) can be used for a wide variety of purposes, including support of preschool programs for the handicapped, educational programs for mulitple-handicapped and low-incidence handicapped children, and to support handicapped children in public schools who were at one time served in State-operated or supported programs.

Approximately 255,000 children are served under this program. The per pupil assistance received by SEAs for children counted under this part ranges from $445 to $668 annually. The average is $558 per child.

Testimony from the field indicates that in some states the Public Law 89–313 program is highly effective. In other states, however, because of the limited data available, the Committee is unable to determine the extent to which the program is enhancing opportunities for handicapped children.

In reauthorizing the Public Law 89–313 program, the Committee has three purposes in mind: First, to make technical and clarifying changes. Second, to strengthen and improve coordination between the Public Law 89–313 program and Public Law 94–142, the Education for All Handicapped Children Act, which is part B of the Education of the Handicapped Act. Finally, to provide additional data regarding the operation of programs.

The amendments retain current policy of authorizing eligibility to children aged birth through 21. With one exception, the formula which is used to determine state allotments under the Public Law 89–313 program has not been changed from current law. The single change deals with child-count procedures used to determine annual state allotments, and specifies that for purposes of conducting an

annual child count under the Public Law 89-313 program, preschoolers aged 3-5 inclusive shall not be counted after FY 1991 unless the SEA has made services available to all handicapped children aged 3-5 residing in that state.

The Committee wishes to make it clear that it intends for every state to comply fully with Public Law 99-457 by making preschool services available statewide. It would be counterproductive to this newly extended mandate to allow states which choose not to serve preschoolers under Public Law 94-142 to receive Federal funds to serve a limited portion of these same eligible children under the Public Law 89-313 program.

The application section is amended to require grant recipients to comply with the key provisions of Public Law 94-142 which guarantee a free, appropriate public education for all handicapped children and due process protections and with the key provisions of part H of the Education of the Handicapped Act, which provide for early intervention services for handicapped infants and toddlers and procedural protections. This provision is included in order to reconfirm that children participating in the Public Law 89-313 program are entitled to the rights and protections set out in the Education of the Handicapped Act. These provisions do not expand or diminish the rights and protections made available under the Education of the Handicapped Act for those children participating in programs receiving assistance under the Public Law 89-313 program.

States must also give assurances that Chapter 1 funds for programs for handicapped children will be used for programs and projects which are designed to meet the special educational needs of handicapped children and the early intervention needs of handicapped infants and toddlers. Furthermore, coordination of the Public Law 89-313 program with Public Law 94-142 and the discretionary program under the Education of the Handicapped Act in each state is required. In addition, SEAs are directed to assign administrative responsibility for the Chapter 1 program for the handicapped to the office which oversees special education services in the state for fiscal year 1991 and thereafter. Reporting requirements for the 89-313 program must also be coordinated with those requirements in Public Law 94-142. For example, child counts for both programs must now be held on December 1 of each fiscal year.

An amendment is included which delineates the acceptable uses of funds states receive under the Public Law 89-313 program. This listing is not meant to be inclusive. The Committee recognizes that states offer a diverse array of services to eligible students with Public Law 89-313 funds and wishes to encourage this practice. The Committee anticipates that in the future, funds under the Public Law 89-313 program will be used to foster new and expanded opportunities for handicapped children. Furthermore, the Committee wishes to allow states the necessary flexibility to provide services to handicapped children in a wide variety of settings and to enhance their capacity to improve the quality of educational opportunities available to these children. An amendment is included which prohibits the use of Public Law 89-313 funds for construction purposes.

Consistent with the Committee's strong endorsement of coordination of the Public Law 89-313 program with the Public Law 94-142 programs in each state, the bill directs the Secretary to monitor both programs whenever a Federal monitoring visit occurs.

Subpart 3—Programs for neglected and delinquent children

Current law authorizes grants to State agencies for the education of neglected and delinquent children in State institutions or for whom the state is responsible. These include children in state-supported orphanages, detention centers for juvenile delinquents, and individuals under 21 in adult correctional facilities. The Committee recognizes the overwhelming need for this program. The current program serves 60,000 students, which represents about 74 percent of those who are eligible.

The bill reauthorizes this state-operated program with minor modifications that will improve its effectiveness. The bill clarifies the kinds of program that may be eligible for neglected and delinquent funds. Language in statute enables children to be served under the SEA program if the SEA is responsible but is not providing services, and that children may also be served if they were placed in institutions voluntarily. Finally, children in community day-care programs for neglected and delinquent children are eligible.

The Committee is aware of problems regarding an interpretation of the "supplement, not supplant" provisions as it applies to programs for the neglected and delinquent. It has therefore provided further clarification that programs shall be supplementary on the basis of the total number of hours of instruction of students from both state and local sources. This shall be considered within the "supplement, not supplant" requirement regardless of the subject areas of instruction.

In addition, the Committee has added a provision that evaluations of this program should take into account other important factors by which success should be measured such as whether or not it was successful in helping a student make the transition to a regular LEA program.

An important component of this program is the focus on transition to regular LEA programs. The Committee has increased the amount that may be provided for transition services to 10 percent.

Finally, the bill requires that records of neglected and delinquent students transferred among State and local educational agencies shall include the individualized education programs of students who have them, and provides that neglected and delinquent children under the State program who are also eligible for State-operated Chapter 1 handicapped programs may be counted under both programs.

CHAPTER 2

Background

The Chapter 2 block grant was first authorized in 1981 as part of the Omnibus Budget Reconciliation Act. Over 30 categorical programs were combined into a single block grant allocation to State and local educational agencies. Funds are distributed to states on

the basis of school-aged population. Twenty percent of the state grant may be reserved for state educational agencies, and the remaining 80 percent is distributed to LEAs on the basis of school-aged population within the State. Educational agencies are able to use block grant funds for any of the more than 30 antecedent programs, or for other educational purposes. The flexibility of the block grant has been very popular at the state and local level. The Committee is aware that Chapter 2 funds have given state and local educational agencies the opportunity to define their priorities and fund appropriate goals, objectives and activities. However, there has been concern that there are insufficient accountability requirements for these funds, and that in practice the use of funds in some districts has been for general education purposes. The Committee is particularly concerned that these funds not be considered part of the general revenue in each agency, but rather address specific needs that are unmet by state and local expenditures.

Thus, the Committee believes that the effectiveness of Chapter 2 can be enhanced by targeting the use of these funds at the state and local level on programs or projects which provide for equity or quality. The Committee believes that a more targeted definition of permissible use of funds under Chapter 2 will make clear that the goals of Chapter 2 should be consistent with the traditional federal role in education: that of protecting underserved populations and addressing national priorities, including reform and improvement.

The Committee has therefore sought to provide this kind of targeting by restricting the use of Chapter 2 expenditures to six broad areas. State and local educational agencies continue to have the same degree of flexibility in determining their use of funds within the six categories. These categories are as follows:

1. Programs for at-risk students including the educationally and economically disadvantaged, school dropouts, those with limited-English proficiency, and disadvantaged pre-school children;
2. Basic skills instruction for secondary school students and programs to combat illiteracy;
3. Programs for the gifted and talented;
4. Library materials and resources;
5. Programs for school reform, innovation and teacher and personnel training; and
6. Programs for personal excellence, including instruction in ethics, performing and creative arts, humanities, physical fitness and health, and community service.

It is the intent of the Committee that state and local educational agencies may use funds under one or more categories and that they may, indeed, address all six categories. However, there is no requirement that they fund more than one category.

The Committee is very concerned that the federal government has an insufficient gauge on how Chapter 2 expenditures at the state and local level have contributed to school improvement or have met the needs of undeserved populations. To correct this situation, S. 373 requires that in both the state and the local applications, SEAs and LEAs shall indicate how programs or projects funded under Chapter 2 fit one or more of the six categories of tar-

geted assistance and their reasons for the selection of these programs.

The Committee believes that these six categories represent national priorities with respect to education. The Committee is aware that the scope of these six categories is broad; nonetheless, this framework provides more structure and targeting to insure that funds provided under Chapter 2 focus on national priorities and underserved populations.

The Committee has chosen these six categories because of the very great need we face in these areas. The first area is educational programs for at-risk youth. Testimony before the Subcommittee on Education indicated that at-risk youth present the greatest challenge to school systems. Over 25 percent of our students drop out of school each year. A study on illiteracy by the National Assessment of Educational Progress indicates that over 13 percent of seventeen-year-olds are functionally illiterate. Compensatory education for these students continues to be a high federal priority, but current Chapter 1 funding only serves about 45 percent of the eligible population. This area of targeted assistance would encourage school districts to use Chapter 2 funds to provide additional assistance to these students.

In addition, at-risk students include other high-cost students, including handicapped and students with limited-English proficiency. Again, although there are federal assistance programs specifically targeted to these populations—the Education for the Handicapped Act and the Bilingual Education Act—the Committee recognizes that these programs cannot meet the total need in these areas. It is, therefore, the intent of the Committee that if school districts need to focus additional efforts on these students, they may do so with Chapter 2 funds.

In addition, the Committee is aware that school districts are using Chapter 2 funds for desegregation purposes. The Committee believes that this use of funds is consistent with the priority of addressing the needs of at-risk students and believes that these activities should continue under this reauthorization bill.

The Committee believes that one of the most cost-effective means of addressing the special educational needs of at-risk students is to provide early intervention and early childhood education programs. These services, provided at the early stages of a child's development, may often prevent the high cost of remedial education in later years. The Committee is aware of the importance of assistance at this critical time and has, therefore, included early childhood education as an effective means for addressing the needs of at-risk students.

A second category of targeted assistance is that of basic skills instruction for secondary school students, and programs which combat illiteracy. The Committee is very concerned about the serious problem we face with respect to illiteracy. According to several studies, over 26 million people in this country cannot read. Tasks which many individuals perform as reflex actions are impossible for people who cannot read. Reading a newspaper, selecting cans of food, filling out a job application and understanding a note sent home from school are beyond the reach of these people. And, the

consequences of high illiteracy levels are felt acutely in every aspect of American life: in the workplace and in the home.

In a comparison with other nations, the United States falls far short of even a respectable rank in the proportion of the citizens who are literate. Out of 158 member nations of the United Nations, the United States ranks an unimpressive 49th. In addition, while 26 million people are illiterate, it is estimated that a far greater number of citizens are functionally illiterate, meaning that they read below an eighth grade level. Functional illiteracy among minority youth may run as high as 40 percent.

The Committee, therefore, believes that this evidence provides compelling justification for establishing programs to combat illiteracy, specifically compensatory education programs for secondary school students, as a category for targeted assistance.

The third category of targeted assistance is programs for the gifted and talented. The Committee believes that this is another area where educational investment at an early stage will reap rewards manyfold in coming years. There are two and one half million gifted and talented students in this country. Fifty percent of these students have never been identified. For those known to be gifted, curriculum is often inadequate. Roughly half of these students achieve below their ability level.

This country ransoms its future when it fails to push our best and brightest to the full limits of their abilities. Without a challenging education, many of these students will leave school altogether. In fact, close to 18 percent of high school dropouts are gifted and talented students.

The fourth category of educational assistance is acquisition of library materials and other media resources. Testimony before the Education Subcommittee outlined the relationship between student achievement in reading and school library collections. Studies indicate that there is a significant increase in student test scores in schools where students have greater access to library centers and materials, and that there is a positive relationship between scholastic achievement and a high level of library service.

According to a recent study by the Center for Education Statistics, library use is on the rise. Ninety-eight percent of pupils in public schools and 75 percent of pupils in private schools have access to a library media center in their schools. These figures represent a 30 percent increase over a similar study done in 1968. However, while library use is up, materials and collections are often inadequate and out-of-date. The Center for Education Statistics study reports that school library per pupil expenditures have declined by 16 percent since 1978.

The Committee believes that an investment of this nature will improve the educational achievement of all students and that access to up-to-date library and other media materials and equipment is among our national priorities.

The fifth area of targeted assistance is that of educational reform. The Committee is aware that many states have adopted plans for school reforms. The Committee applauds these efforts. Since publication of "A Nation At Risk" state and local governments have increased their fiscal support for elementary and secondary education. The Committee is aware that these efforts are

extremely costly and believes that use of Chapter 2 funds for this purpose is an appropriate national priority as it encourages improvement and quality. However, such use of funds must be consistent with the requirement that the federal effort supplement, and not supplant, efforts the state would otherwise have made.

In addition, the Committee recognizes that one of the most critical efforts in school improvement is teacher and personnel training. This includes pre-service, in-service, and retraining. The Committee recognizes that programs for professional development enhance the knowledge base and performance of a broad array of educational personnel. It is, therefore, the Committee's intent that administrators, elementary and secondary school-based personnel district-level, and other non-school-based personnel may be served by innovative programs for training and professional development funded under this category of targeted assistance.

The sixth category of targeted assistance is that of personal excellence and student achievement. Included in this area are activities such as instruction in ethics, the performing and creative arts, the humanities, physical fitness and health, and participation in community service. These are activities that, in the Committee's opinion, will promote both the education of the student and the development of the character of the student.

In this regard, the Committee is particularly indebted to the contribution of Admiral James D. Watkins, the retired Chief of Naval Operations. He is the person who conceived of and implemented a personal excellence program in the U.S. Navy. Since his retirement, he has been tireless in his efforts to promote such program in our nation's schools. The Admiral understands clearly that our schools must be concerned with both the educational and character development of our young people.

The Committee, therefore, is very hopeful that the Personal Excellence and Student Achievement provision in Chapter 2 will result in a new emphasis upon programs that are concerned with the full development of a child and not simply instruction in a single area.

The Committee has included language to allow consortia of local educational agencies to apply for grants under Chapter 2. In some states or areas, there are many very small LEAs, which receive very small Chapter 2 grants. While many LEAs choose to use their grants in their own district, on their own programs, there are a number of LEAs that would like the flexibility to combine their Chapter 2 grants with other LEAs, as a consortium or through other intermediate educational agencies, to work on similar problems and to make their dollars go farther. By combining several small grants into larger grants, some LEAs believe they can use the Chapter 2 dollars more effectively.

National Programs.—The Committee has continued the six percent set-aside for the Secretary's Discretionary Fund in Chapter 2 under Part C, Section 1561 of this Title. The Committee intends that funds for the following programs under the Discretionary Fund shall be funded at no less than a floor of the fiscal year 1987 grant plus five percent as follows: for the National Diffusion Network program, $11.2 million; for the Inexpensive Book Distribution program, $8.2 million; for the Arts in Education program, $3.5 mil-

lion; for the Law-Related Education program, $3.2 million. The Committee has deleted the provision for drug abuse education in view of the fact that the Drug Abuse Prevention Act passed in the 99th Congress addresses this issue. The Committee has added a new authorization under the Secretary's Fund for a Blue Ribbon Schools program under Section 1566.

The Committee recognizes that the National Diffusion Network is one of the most cost-effective means for promoting excellence throughout the nation's school systems. This legislation clarifies the purpose and function of the National Diffusion Network. It is the intent of the Committee that the Secretary evaluate (or review the evaluation of) the effectiveness of proposed exemplary school improvement projects according to objective evaluation criteria relating to student, classroom, and/or school-wide achievement. These criteria have been appropriately developed, modified, and utilized by the Secretary's Joint Dissemination Review (or Program Effectiveness Panel) throughout the past decade. Selection of projects based upon their content, or "program significance", shall remian the decision of the local schools, not the Federal government.

It is the Committee's intent that the Secretary not review or assess projects based on the appropriateness of content.

Further, the Committee is of the opinion that the Secretary should make yearly or multiple-year funding awards to exemplary projects (Developer Demonstrators) based upon the projects' ongoing effectiveness and the continued demand for adoption/adaptation/implementation of the program by local schools throughout the nation.

And, the Committee believes that the Secretary should assure that National Diffusion Network facilitators be State-based facilitators, not regionally based. The Secretary may provide incentives to State Facilitators so as to assure additional, priority adoptions/adaptations/implementations of Developer Demonstrator programs in public, private, parochial, and/or other non-public schools.

Out of the money reserved for NDN, the Committee enables the Secretary to use up to five percent for the funding of experimental dissemination processes efforts on a pilot basis.

The Committee has created a new program to recognize exemplary schools through the Blue Ribbon Schools Award Program. This program provides statutory language for the current Secretary's Recognition Program. Secretary Bell began the Secretary's school recognition program five years ago to make awards to exceptionally successful elementary and secondary schools. Secretary Bennett has continued this practice. During this time the program has become increasingly popular with educators and their communities. This past year, 271 public and private secondary schools were selected for recognition from 46 states, Puerto Rico and the District of Columbia.

These awards have become coveted prizes. They provide inspiration for the hard work necessary to maintain good schools. The Committee feels that this is an important contribution, and that the Department should continue and refine this program. The Committee notes that the Department has been gathering data from schools that have been nominated for recognition, and antici-

pates that the Department will mine this information for lessons in improving education.

The Committee has given this program a separate authorization level because of the importance of providing national recognition to schools of excellence. It is also a more formal recognition of the excellent work being done by the Secretary in this important area. The Blue Ribbon Schools Award Program gives the Secretary discretion as to which schools are recognized. For example, in one year, as in current practice, the Secretary may recognize elementary schools and the following year recognize secondary schools. The Committee also notes that the Department has recently been planning initiatives to recognize schools that excel in teaching specific subjects or dealing with specific problems such as drug abuse. The Committee commends these initiatives and encourages the Department to collaborate with other federal agencies when their expertise is pertinent.

In addition, the Secretary may work with current recognition programs provided through foundations or professional organizations in determining the recipients of the Blue Ribbon School Awards, and in providing proper recognition for the schools. The Committee notes that the National Diffusion Network is a source of expertise for improving schools that wish to be recognized. In turn, schools or programs within schools that have been recognized by Blue Ribbon School Awards should be encouraged to prepare their effective strategies for submission to the National Diffusion Network so that they may be available to other schools.

TITLE II—SPECIAL PROGRAMS FOR INNOVATION IN EDUCATION

Part A—Even Start

The Committee recognizes that early intervention programs are often the most cost-effective method of providing compensatory education. Early intervention enables schools to identify at-risk students and to correct academic and learning deficiencies before those students fall too far behind. Such efforts, however, must take into account the needs of parents, who themselves may be disadvantaged and in need of educational services to help them learn how to help their children read and write. Unfortunately, illiteracy has been found to be an intergenerationl problem. Often, if parents cannot and do not read, then their children will be unable to do so as well.

The Committee has already expressed its concern that compensatory education rarely reaches into the secondary school years. Equally alarming, however, is the fact that only one percent of Chapter 1 students served are at the pre-kindergarten level. And, while the Head Start program is focused on pre-school students, the sad truth is that this popular program serves only about 20 percent of eligible children.

With this in mind, the Committee has authorized a new, innovative discretionary grant program to provide compensatory education for pre-kindergarten students and to combine this instruction with instruction for their parents who do not have the equivalent of a high school degree or who are illiterate or deficient in basic skills. This new $25 million authorization is appropriately titled

the "Even Start Act", for it seeks to provide children with sufficient educational assistance so that they may begin their elementary school years with the same degree of "readiness" as other non-eligible children.

Testimony before the Labor and Human Resources Committee suggests that there is overwhelming evidence that students with parents who are active readers learn to read more quickly than other students. While the Adult Education Act provides funds for literacy instruction for adults, there is often no coordination with the Chapter 1 program, even though assistance under both programs may serve the same family. The Committee believes that the Even Start Act will provide seed money that will enable better coordination among these programs. The effect on the achievement of both children and parents will be greatly enhanced by a coordinated effort.

LEAs, SEAs, institutions of higher education, community-based organizations, and other organizations may apply for funds. Priority will be awarded to applicants that demonstrate a high degree of coordination among organizations that serve both populations. The Committee intends that assistance provided under this Part serve as seed money, so that in the absence of federal assistance, the program would continue to operate. The Committee has, therefore, required that the proportion of the federal assistance for the operation of the project decline each year to encourage the applicant to sustain the services provided by the program.

Part B—Effective Schools

The Committee has been particularly concerned that there is insufficient federal support for efforts to improve schools through innovative structural change. Extensive research evidence shows that through such change and considerable efforts on the part of administrators, educators, and innovators, schools have been able to improve student achievement. This holds true for schools in very poor school districts as well as those in affluent areas.

Analysis of the success in these schools has produced a body of literature on "effective schools" that extrapolates the procedures for school reform that were commonly conducted in these successful schools. These include: strong, effective administrative and instructional leadership that creates consensus on instructional goals; emphasis on the acquisition of basic and higher order thinking skills; a safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement; a climate of expectation that all children can learn; and continuous assessment of students and programs to evaluate the effects of instruction.

The Committee hopes that state and local educational agencies will emphasize this comprehensive approach to school-wide improvement. The Committee believes that the federal government has a strong role to play in carrying out this objective. Currently over 7,000 schools nationwide have begun to adopt "effective schools". S. 373, therefore, has authorized an "Effective Schools" discretionary grant program to provide assistance to schools to plan, adopt, and implement the findings of this literature. This

Part makes provision for an authorization of $25 million for this purpose.

Part C—Women's Educational Equity Act

The Women's Educational Equity Act (WEEA), Title IX-C of the Elementary and Secondary Education Act, was first authorized by the Education Amendments of 1974, Public Law 93-380, and was first funded in FY 1976. The statutory purpose of the WEEA program is to promote educational equity for women and girls in the United States and to provide financial assistance to help educational agencies and institutions meet the nondiscrimination requirements of Title IX of the Education Amendments of 1972, Public Law 92-318.

The WEEA program provides discretionary grants and contracts to public agencies, private nonprofit organizations, and individuals for women's educational equity projects that are of national, statewide, or other general significance. Among other things, the Act authorizes curricular and textbook development related to women's educational equity, model personnel training programs, gudiance and counseling activities, and educational equity research. The WEEA program supports work, not only in elementary, secondary, and higher education, but also preschool, vocational, and adult education.

The Act authorizes two types of discretionary grants and contracts. The first is a discretionary grant program to develop, demonstrate, and disseminate information on women's educational equity programs, materials, and activities of national, State, or general significance. In this regard, the Committee intends that the Department of Education attempt to avoid supporting previously funded projects. The second discretionary grant program assists projects of local significance, including support for programs to achieve compliance with the nondiscrimination provisions under Title IX. This latter program has never been implemented because the authorizing legislation stipulates that the Department can provide financial assistance to projects of local significance only when annual appropriations for the WEEA program exceed $3 million. If annual appropriations exceed $3 million, the WEEA program can pay part of the costs of establishing and operating, for up to two years, new projects that are of national, statewide, or other general significance that provide equal opportunities for both sexes.

The need for WEEA remains great. It is the only Federal funding source to support equity projects at all levels of education and to help educational agencies implement the Federal anti-discrimination mandate to Title IX. Confusion in the aftermath of the *Grove City College* v. *Bell* Supreme Court ruling on Title IX makes the WEEA program an even more important component of Federal equity legislation.

The WEEA program is cost effective. WEEA funds projects of national, regional, or local significance that can be used in schools, colleges, and community-based programs throughout the country. The products are published and sold at cost; thus even a school district far removed from a particular WEEA project benefits from the materials developed with WEEA support.

In the first nine months of 1986, the WEEA publishing center sold more than $123,000 in WEEA products—more than in any previous year.

S. 373 continues the program in its current form, with six changes. First, the authorization level is decreased from its current level of $14 million for FY 1987 to a level $5.3 million for FY 1989 with 5 percent increases each year thereafter until FY 1993. The Committee views this authorization as the minimum level of Federal commitment to improve the quality of education for women and girls at all levels of education. The decrease is a result of the pattern of appropriations of the past few years. Second, lowering the trigger in the law from $6 million to $3 million for local programs to implement equity activities in specific schools or colleges will insure that such programs are implemented.

The third change from current law requires that the program be administered through the Office of Educational Research and Improvement (OERI) within the Department of Education. In 1983 the WEEA program, which used to be a separate office, was placed as part of a departmental reorganization, several layers deep within the Office of Elementary and Secondary Education. Because the WEEA program deals with all levels of education, from pre-school to higher education, and because it supports demonstration programs of national and regional significance, it more appropriately belongs in OERI.

The fourth change from current law eliminates the National Advisory Council on Women's Educational Programs. This is consistent with the Committee's approach throughout S. 373—to eliminate all advisory councils. The Committee believes that the current constrained budgetary environment will continue into the future and that funds, therefore, are more appropriately spent on direct program services rather than expenses of such councils. In addition, the Committee believes that the role of such councils can be performed by the Department office that now provides support services to those councils.

The fifth change from current law requires that the Secretary of Education give special consideration to applicants that have not received assistance under the program or under Title IX and to applicants on the basis of inequitable geographic distribution throughout the nation.

Finally, the sixth change from current law requires the Secretary to evaluate or estimate the potential for continued significance of a project application after completion of the grant period.

The Committee notes that a high demand for WEEA products exists despite the fact that Department of Education restrictions have curtailed the publication of new materials. Only two new products have been published in the last two years, although dozens have been developed. The Committee bill maintains the requirement in law that WEEA programs and materials be disseminated nationwide and urges the Department to abide by this requirement. It is a waste of Federal funds to develop products that are withheld from their intended audience: school personnel, students, and parents.

79-429 - 87 - 2

Part D—Gifted and talented

Background

The federal government began its involvement in the education of gifted and talented students over 15 years ago. In 1969, Senator Jacob Javits of New York introduced the Gifted and Talented Children's Education Assistance Act. This legislation focused federal attention on gifted and talented youth by giving them priority in several federal education programs and directing the Commissioner of Education to report to Congress on the cureent status of the need for and availability of educational programs for gifted and talented children.

In 1974, $2.5 million was provided to LEAs for the education of these children. And in 1978, the Gifted and Talented Children's Education Act was authorized under Title IV–D of the Elementary and Secondary Education Act. Appropriations for this program reached $6.3 million in 1980, allowing for the support of many excellent and innovative educational programs.

In 1981, the Gifted and Talented Children's Education Act was rolled into the Chapter 2 education block grant along with more than 27 other categorical programs. Unfortunately, many gifted and talented students lost services under the Chapter 2 block grant. By 1986, only 13 percent of school districts used Chapter 2 funds for this purpose. Districts which did fund gifted and talented programs spent an average of only $1,000.

The need for this program remains considerable. The Committee recognizes that many of these children have never been identified. In light of our concern that we strengthen our trade position, it is particularly important that we identify all such students and provide them with instruction that will challenge them to the full limits of their potential. These are the students to whom we will look for leadership in the coming century, and there is no question that the future of this country rests largely in their hands.

It is estimated that we have nearly 2.5 million gifted and talented elementary and secondary students in this country, but 40 to 60 percent of this population has never even been identified. Furthermore, 50 percent of the identified students achieve below their ability level due to inadequate programs. Only 20 percent of the teachers in gifted education are sufficiently trained to design a curriculum for these students. It is important to realize that many of these students are disadvantaged, and that many, offered an unchallenging curiculum and unaware of their educational talent, drop out of school.

The Committee therefore believes that it is time again to reauthorize a program devoted to the education of gifted and talented students. Part D of this Act authorizes $15 million in discretionary grants to state and local educational agencies, institutions of higher education, and other public and private organizations for the purpose of identifying and teaching these students. Grants may also be awarded under this Part for both pre-service and in-service training programs for teachers of these students.

In view of the fact that many gifted and talented students are economically disadvantaged, the Secretary is required to award one

half of the grants under this Part to projects which serve the economically disadvantaged.

In addition, this Part establishes a national center for reaearch and development in the education of gifted and talented youth. The purpose of this Center is to stimulate high-quality research that will assist in identifying and serving gifted students in innovative ways. This Center will provide the national leadership and support needed to insure that the special potential of these students for assisting our nation will not be lost.

Part E—Family-School Partnership Act

There is widespread evidence that involving parents in a child's education improves performance. The first finding in the Department of Education's popular volume "What Works" makes the case strongly and succinctly:

> Parents are their children's first and most influential teachers. What parents do to help their children learn is more important to academic success than how well-off the family is.

The Committee believes that the federal government has an important role to play in encouraging the development and expansion of programs designed to increase parental involvement in their children's education. The Committee has added provisions to the current Chapter 1 program to encourage parental involvement. In addition, the Committee believes that the new authorization under this Part will further carry out this goal.

The Committee also believes it is particularly important, given the changing demographic character of the homes in which children are raised, to develop new approaches to the methods of parental involvement to respond to these changes, including, for example, single-parent homes, two-earner families, and families where the parents have limited-English proficiency.

To accomplish this objective, S. 373 authorizes the Family-School Partnership Act. This program will provide demonstration grants to local educational agencies for the development of innovative and promising activities designed to increase family involvment in education. The types of programs that might be funded through this legislation include: training programs for the family on parental responsibilities in education, planning and development of new school procedures and practices, development of educational materials to reinforce academic school learning at home, and the development of programs that foster communication among parents, educators, and students.

In addition, the bill calls for the Secretary of Education to establish an administrative unit in the Department of Education to emphasize the importance of family-school partnerships in education. Through this office, the Secretary will collect and disseminate information on and serve as a clearinghouse for successful programs on family-school educational partnerships.

The bill authorizes $10 million for this program in fiscal year 1989, with 5 percent increases thereafter.

Part F—Allen J. Ellender Fellowship Program (Close-Up)

The Ellender Fellowship Program was established as a memorial to the late Senator Allen J. Ellender of Louisiana. The legislation authorizes grants to the Close Up Foundation in Washington, D.C. The purpose of this organization is to increase understanding of Federal governmental processes among secondary school students, their teachers, and the communities they represent. The Foundation's primary activities are conducting week-long seminars on American government in Washington, D.C. for high school students and teachers, providing technical assistance to State and local programs of education about government, and producing instructional television programs.

The Close Up Foundation receives funds from a variety of public and private sources. Federal appropriations for Ellender Fellowships are used specifically to provide assistance to economically disadvantaged high school students and their teachers in meeting the costs of attending the Washington, D.C. seminars. According to the Department of Education, approximately one-quarter of the participants in these seminars receive Ellender Fellowships, and for those recipients, the Ellender Fellowships pay approximately one-third of transportation and other participation costs. The remainder of the seminar costs for Ellender Fellowship recipients are paid from public and private matching funds, generated in the localities where the students and teachers live. The legislation requires that Fellowships be provided to participants from rural, small town, and urban areas.

Funding for the program first declined and then increased over the last eight fiscal years. Currently, the program receives an appropriation of $1.7 million.

The number of Fellowships actually awarded was approximately 1,500 for each Fiscal Years 1973–1976. Participation in the program rose gradually, to approximately 2,000 per year, in the period of FY 1977–83. However, beginning in FY 1983, participation has more than doubled, rising to an estimated 5,800 students for FY 1986. The reasons for this large increase are a higher appropriation level, a switch from a current to a forward-funding schedule (which has aided in planning), and greater success by, the Foundation in raising local matching funds (requiring fewer federal funds per participant). The average federal cost per participant has fallen from approximately $400 in FY 1978 to an estimated $281 in FY 1986. While total costs have risen substantially over this period, a higher proportion of them are paid from non-federal sources. The Ellender Program has therefore been successful in stimulating the donation of non-federal funds.

The Committee recognizes the commendable work of the Close Up Foundation in exposing students and teachers from all across the country to the working of the Federal government. With the value of this program in mind, the Committee increases the reauthorization of the current program to $3 million, adding new language which gives special consideration to the participation of students with special educational needs, including handicapped students, students from recent immigrant families, ethnic minority

students, gifted and talented students, and students of migrant parents.

To further expand this exemplary program, S. 373 authorizes an additional $3 million to enable the Close Up Foundation to broaden the outreach of their program to include government education activities for older Americans and recent immigrants. The funds would be used to make fellowships available to needy older Americans and recent immigrants, with special consideration given to those with special needs, including handicapped individuals and ethnic minorities. The Committee believes that it is valuable for these individuals to be given the opportunity to gain further understanding of Federal governmental processes and to reinforce the value of citizenship in the United States.

Funding for the new program, subpart 2, is triggered by full funding for current law, subpart 1. Although the Committee sees great value in including older Americans and recent immigrants in this program, the funding for the original Close Up Program for high school students and teachers should take priority over any expansion.

Part G—Territorial Assistance

The Territories—Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the former "Trust Territory of the Pacific Islands"—are eligible for assistance under most federal education assistance programs. These territories are provided for through these acts either under the designation as a State or under a separate set-aside.

In addition, there are currently two programs that provide federal assistance specifically for the territories: General Assistance for the Virgin Islands and Territorial Teacher Training.

General Assistance to the Virgin Islands.—This program provides additional federal assistance to carry out educational programs such as curriculum development, remedial education, research and dissemination, and asbestos removal. This program was authorized to compensate the Virgin Islands for their high percentage of nonresident students. The Virgin Islands is required by the U.S. District Court to educate these students, who represent 13 percent of the student enrollment.

The requirement that these students receive a free public education has increased the educational needs, such as compensatory education, and school-facilities needs of the Islands. Current law authorizes $5 million, the same as the FY87 appropriations level. S. 373 reauthorizes this program at its current authorization level of $5 million for fiscal year 1989 with five percent increases for each fiscal year through 1993.

Territorial Teacher Training Assistance.—This program provides grants to each of the territories for pre-service and in-service training. In practice, one grant has been made to each of the five eligible areas. Grants are allocated to the territories on a per pupil basis, with a minimum of 5 percent for each of the territories.

The need for this program is considerable. Many teachers remain uncertified and each year teacher shortages increase. The Committee has therefore reauthorized this program at its current authori-

zation level of $2 million for fiscal year 1989 with a 5 percent increase for each fiscal year through 1993.

Part H—Parental Choice Open Enrollment Demonstration Program in Public Schools

Based on research, testimony presented to the Committee and documented experience, the Committee has concluded that significant educational gains can be made through greater parental involvement in key educational decisions and activities, including the choice of public schools.

In general, students work harder and learn more in educational institutions they and their families have selected than in those they have been assigned to attend. Though this kind of choice is not routinely available within public school systems, there is ample evidence that it can yield substantial gains, especially for disadvantaged students. The Committee is impressed by the example of Community School District 4 in New York City, which has achieved national recognition for gains in student achievement that have been made since parental choice was permitted in the District's junior high schools. Testimony received by the Committee suggests that this approach has also led to better school attendance and increased accountability of local schools. Many other examples can be cited.

Part H of Title II authorizes the "Parental Choice Open Enrollment Demonstration Program in Public Schools". Under this Part, $15 M is available to the Secretary to award grants to local school districts to establish open enrollment demonstration projects. The Committee believes that innovation in this area can foster increased parental involvement in local school programs and improve student performance, as the success and popularity of the Magnet Schools Program demonstrates. The success of the Magnet Schools Program supports the contention that such involvement encourages schoolwide improvement and enhances overall student achievement. The Committee intends that grant recipients will use project funds to create distinctive programs which utilize new and innovative approaches to education.

Participation in Parental Choice Demonstration Projects is limited to the public schools. Grants of up to $1 million may be awarded to individual school districts or consortia of districts. The Secretary may award larger grants under special circumstances where particularly large school-attendance areas are involved. The Committee intends that these awards be for at least five years, to allow ample time for open enrollment or parental choice demonstrations to become well established and to be fairly evaluated.

The Secretary of Education is directed to provide for an independent evaluation of this demonstration program, with the results of that evaluation to be reported to the Congress no later than October 1, 1992.

Part 1—Rural education opportunities

The Committee has included in S. 373 an authorization for a new program serving rural, small schools. The need for this program was made apparent to the Committee with the release of several

national reports that revealed that rural America's poverty is on the upswing. A recent national survey of rural educators further indicates that their number one concern is providing a better education to children from low-income families.

Section 2451 authorizes the Secretary to make grants available for the purpose of providing technical assistance services to small, rural school districts, $10M is authorized for this part to grantees who are able to demonstrate an ability to serve, on a regional basis, State Education Agencies and Local Educational Agencies and assist them in upgrading the quality of their Chapter 1 programs in rural areas. The Committee intends that all parts of the country benefit from this initiative and further directs the Secretary to establish ten such regional Rural Assistance Centers (RACs).

The established Centers will work primarily with small, rural schools that enroll significant numbers of children from low-income families. Services provided by the Regional Centers may include consultation, teacher training, and other assistance requested by participating rural schools. The Committee directs the Secretary to award grants to applicants who propose to serve districts with the highest concentrations of poverty and where student achievement is stagnant or in decline. The proposed Rural Assistance Centers will work with these poor districts to develop an individual plan of assistance involving administrators, teachers, support personnel, and parents.

The Committee recognizes the special difficulties facing rural school districts in the provision of quality Chapter 1 services. Rural districts are often poorer than urban or suburban districts, are less likely to receive Chapter 1 funds, and are able to do less with the money they are allocated. Because of the limited numbers of students served, rural districts often are eligible for such small Chapter 1 grants that they are unable to mount an effective program. Small, rural districts often rely on county or state offices for staff development and technical assistance services. For that reason, the RACs are directed to work with and through these offices where appropriate.

In awarding grants under this part, the Committee intends that the Secretary consider the proven effectiveness of the applicant in serving a regional area, working directly with small, rural districts, and the specialized expertise such applicant can provide to the local districts served.

The Committee assumes that the need for such assistance will outstrip the resources available to provide it. Consequently, the Committee believes the Rural Assistance Centers should receive their allocated resources only after demonstrating that they have developed assistance plans in collaborating with their state agencies and the targeted rural districts. The Department should allocate resources to the assistance centers based on a formula that includes such factors as number of eligible districts. If, for some reason, a region does not claim its allocated share of the program dollars, the department should release them to other regions where the level of activity warrants additional resources.

The Rural Assistance Centers should be collaborative institutions. Therefore, the Committee intends that these centers work to-

gether and with other programs and institutions already engaged in similar efforts; e.g., the regional educational laboratories, the National Diffusion Network, and the Chapter 1 Technical Assistance Centers. The bulk of the assistance to be provided the targeted rural districts will be designed to improve the educational achievement of low-income children. Because of that focus, the Committee intends that the Secretary house the Rural Assistance Centers in the Office of Elementary and Secondary Education so that new program benefits from the experience of other compensatory education initiatives and in turn shares its successes with these larger programs.

Part J—Secretary's fund for innovation in education

The federal government's role in education is threefold: to protect underserved populations, to encourage and promote quality education, and to provide assistance and leadership in areas of national priority. Within this threefold purpose, the need to provide additional assistance for underserved populations is so great that the federal effort in education has had to be heavily invested in this one area. However, the Committee recognizes that the government should play a more modest, but critical role in promoting quality and educational innovation.

This part therefore creates a new modest authorization of $20 million to establish a Secretary's fund for innovative programs. Within this Part, the Secretary is authorized to fund five new programs which the Committee considers to be of the highest national priority in federal assistance for innovation. These areas include: the development of programming for educational television and radio, computer-based instruction, an office of comprehensive health and programs for the improvement of comprehensive school health education, telecomunication and video instruction programs, and youth-suicide prevention demonstration programs.

Materials for use in educational television and radio programming, section 2502

Television and radio have been used for home and school educational services for many years. Tape cassettes, satellites, and cable systems have extended the reach and ease of use of these media to every corner of our nation. The Committee recognizes the powerful impact that this method of instruction can have on educational achievement. Television and radio have the potential to play a significant role in the instruction of school children, and the Committee believes that this Section will enhance the ability of this medium to play such a role.

Witnesses testified before the Committee that fewer video and other instructional materials are being produced in sufficient quantity to meet the growing demand for school and home use.

The Committee heard testimony from producers and broadcasters of educational programming as well as school officials responsible for its use. While the Department of Education has provided support for individual program initiatives—among them "Sesame Street" the science series "3-2-1 Contact!" the math series "Square One-TV," and others—there has been no consistent federal commit-

ment to support the development and production of high quality instructional programming. Section 2502 would authorize the Secretary to fund, in whole or in part, educational programs designed for nationwide school and home use.

Programs for computer based instruction, section 2503

Computers are a fact of everyday life for all Americans. They are changing the way we work, the way we live, the way we learn. We have left the industrial age and entered the information age. Information technology can be beneficial for those who are trained to use it, but potentially limiting for those who are not. America's competitive position in the world economy depends on our ability to be innovative and adaptable and to demonstrate technical prowess.

The Committee believes that computer education must be part of the process of strengthening education. This section authorizes grants to LEAs for the purchase or leasing of computer hardware, purchase of software and teacher training. It requires planning for the inclusion of computer education in the school curriculum.

Furthermore, this section authorizes teacher training programs which may be conducted through cooperative agreements with the National Science Foundation and with a variety of public and private educational and scientific organizations. Proper preparation of teachers is essential to the success of a computer education program. These training programs will offer teachers an opportunity to learn about computers and the best methods for using them in the schools. Computers in the classroom require creative and skilled teachers to put them to the best use. Carefully designed computer education programs can greatly enhance good teaching.

Computers can be crucial in the transition from traditional education, with its emphasis on rote learning, to a new emphasis on assimilating information and solving problems. Computers can be used by students in every subject in every grade. Students can use word processing programs to improve their writing by editing and revising more easily than they do now. They can learn to simulate "what if" situations in history classes so that they can understand more clearly the factors that affect human behavior and events. They can learn to use graphics to present data in a clear and meaningful way. Some scientific experiments can be carried out through simulations.

These uses of the computer in schools would go far beyond the teaching of computer awareness or programming. A basic understanding of the working and operation of a computer should be a beginning for computer education, not an end. Computers are more like pencils than books. As educators come to view computers in this way as tools, they will begin using them to expand their students' horizons and improve their analytical and critical thinking skills.

Thinking of computer education in broader terms will require coordination with curriculum planning. Computer education is more than drill and practice exercises. It involves the use of application software in word processing, spread-sheet analysis, and data base analysis, all of which can be used more generally than highly specialized instructional courseware.

Testimony before the Education Subcommittee indicated that two years ago, 90 percent of U.S. school children attended schools that had at least one computer. This represents a tremendous growth since 1981 when only 18 percent of the schools had even one instructional computer.

However, many of these schools have only one computer. The penetration of computers is wide, but not deep. The machines are frequently spread too thin to be used in optimal ways. Consider what it would mean if students had to share paper and pencil to the extent that they must share computers. Clearly the computer revolution in the schools is in its infancy.

Teachers differ greatly in their access to, and familiarity with, computers. The Second National Survey of Instructional Use of School Computers, conducted in 1985 by the Johns Hopkins University Center for Social Organization of Schools, found that only about 25 percent of all teachers who use computers with students were considered "expert" in various aspects of computer knowledge, 21 percent of middle school teachers were expert, and only 10 percent of elementary school teachers were expert.

School districts will be required to do extensive planning to be eligible for grants. Planning will include:

Setting goals for computer education in the schools and relating these goals to the overall educational objectives of the district;

Planned revisions in the basic curricula of the schools designed to incorporate the use of computers;

Instructional priorities for the use of computers;

Schedules for placing computers in the elementary and secondary schools;

Criteria for selection of the hardware and software;

After school and vacation availability of the computers for use by parents and students; and

Standards for evaluation for the program, including student achievement.

Planning for the appropriate role of computer education is as important as the acquisition of hardware and software. Thoughtful consideration must be given to how to integrate computers into the curriculum. Computer education planners must first consider the overall goals for their schools. Then, they must decide how computers can help them meet those goals. For some purposes, existing methods will continue to be the best. For other purposes, computers offer exciting possibilities for transforming the curriculum and the way it is taught.

The planning requirements in this legislation are extremely important. Education planners need to take a careful look at the role of computers in the total curriculum. They also need to consider such questions as whether to institute saturation programs at a few schools or to provide computers in every classroom in a particular grade throughout the district.

Plans are to include provisions for teachers, children, and parents to use computers after school and during vacations. This would permit parents and children to spend additional time working on the computers and gaining familiarity with them. Such after-school programs would be especially helpful to those without

access to computers at home. The children who do not have computers at home are very likely also to be attending schools which are least likely to have many computers. In such areas, special outreach programs to encourage parental participation may be necessary.

Grant funds can be used for acquisition or leasing of equipment and purchase of computer programs and teacher training. This offers school districts a wide degree of flexibility in designing their programs.

Programs for the improvement of comprehensive school health education, section 2504

The Committee believes that insufficient attention is paid to the physical well-being and fitness of our children. Testimony before the Education Subcommittee indicated that one out of ten 12-year-olds currently drinks alcoholic beverages. Sixty-one percent of high school seniors have used illicit drugs. Although the leading contributors to heart disease and cancer are lack of exercise and poor diet, only 12 states mandate nutrition as a core content area in school health education.

The Committee believes it is time again to focus on the health needs of school students. Such education can establish good health habits which will be life-long. It is extremely important to begin this education before poor habits are entreched and before health problems surface.

Unfortunately, the world today requires that students know more about health, especially the threat of communicable diseases. In addition, change in family lifestyles, an increase in the number of "latchkey children" and other changes in family structures have increased the need for counseling and guidance, including stress management.

In view of the urgent need for these programs, the Committee has included the Comprehensive School Health Education Programs among the national priorities under the Secretary's Fund. The purpose of this Section is to provide state and local educational agencies with grants to establish or strengthen comprehensive school health programs and to coordinate the health education efforts of other federal agencies within the school system.

Currently only about 20 states have an individual devoted to school health education in their state's department of education. In view of this, the Committee has directed that grants under this Section shall be carried out through an Office of Comprehensive Health Education Office established in the Department of Education. In addition, such an office will serve as a clearinghouse to disseminate information and research to school officials and health educators. The National Institute of Health, Center for Disease Control, National Highway Traffic Safety Administration, Bureau of Maternal and Child Health, and the Office of Disease Prevention and Health Promotion all produce public health information which could be geared for school systems. School districts in search of information on health education programs can look to the Office of Comprehensive Health Education for support, guidance and technical assistance.

This Office could encourage community involvement in health education curriculum decisions, speed the delivery of federal health information, and promote quality health education programs. The Committee believes that this program will go a long way toward focusing school efforts on health promotion.

Telecommunications and Video Instruction Program, section 2505

Under this part creates a program of assistance to state and local educational agencies and other public and private organizations for the acquisition and development of quality instructional materials in video instruction. The Committee recognizes the rapid spread of the use of video technology across all sectors of American life. The Committee believes that this method of instruction is a powerful learning tool. In some cases, students respond better to visual aids; and for these students, video technology can be used effectively to develop and improve basic literacy skills as well as higher level, critical thinking skills such as writing, listening, creativity, and comprehension development. Under this section, the Secretary is authorized to help state and local educational agencies acquire the necessary materials and support services to make the most effective use of available instructional telecommunications technologies.

The Committee considers it important that high quality, state of the art programming is made available and is equitably distributed for use in the classroom at all levels of instruction. Teacher-training programs in the use of this technology in the classroom is particularly important if the programming is to have maximum impact. Testimony indicated that assistance for programming is rarely available.

Video technology has the capability to reach every group of students; the traditional mainstream student, dropouts and other at-risk students, gifted and talented students, and the adult learner. The Committee therefore believes that school districts should have access to this technology through a grant program for the acquisition, development and teacher training of this state of the art learning tool. One such example of video instruction, the Video Encyclopedia of the 20th Century, was demonstrated at an Education Subcommittee hearing. The Committee found this testimony extremely compelling and has therefore included video and laser instruction among the national priorities in the Secretary's Fund.

In addition, the Committee recognizes the high cost-effectiveness of instructional television. Programs such as "Sesame Street" and "Electric Company", to name but two, have demonstrated their ability to provide positive instruction for children. By utilizing a partnership of state departments of education, public libraries, public television stations and local school districts, problems such as adult literacy, limited English proficiency, basic skills deficiencies, school dropouts and alcohol and drug abuse could be addressed in an effective and efficient manner.

Youth Suicide Prevention Program, section 2506

The Committee recognizes the growing incidence of youth suicide and youth suicide attempts and has included authorization of a modest demonstration program to assist schools to address this problem. This program will be developed by the Alcohol, Drug

Abuse, and Mental Health Administration (ADAMHA) and administered by the Department of Education. The grants will be made using peer review procedures where a majority of the reviewers are mental health experts. Evaluation of the effectiveness of this demonstration program will be conducted by ADAMHA. The Committee believes that a partnership between education institutions, school districts, and institutions and individuals with mental health expertise will serve to create effective pilot programs which can then be adopted as the community and school administrators believe appropriate.

Materials development

Title II provides authority to the Secretary to fund the development of instructional materials for several programs (Effective Schools, Women's Educational Equity, Family-School Partnerships, and Bilingual Education) where such materials are commercially unavailable. This is consistent with the general policy of the government to rely on commercial sources to develop and supply instructional materials and services. In addition, it parallels the Committee's general objective to avoid duplication of materials currently in the market and to provide an incentive to commercial publishers of instructional materials to develop new and improved materials.

The Committee expects that the Department's implementation of these new provisions on materials development will be similar to the current implementation of the bilingual educational materials development program under section 721(a)(7) of the Elementary and Secondary Education Act, as codified at 34 C.F.R. Part 537. Thus, upon applying for funds under these programs, it is the responsibility of the applicant to show that the proposed materials or activities are not commercially available. The applicant must describe the innovative nature of the proposal, and explain how it will meet a need not currently met by the marketplace.

TITLE III—MAGNET SCHOOLS FOR EDUCATIONAL IMPROVEMENT

In 1972, the Emergency School Aid Act (ESAA) was created in response to the federal mandate to desegregate the public schools. This Act provided federal assistance to local school districts undergoing desegregation by plan either voluntarily or in compliance with court decisions. ESAA provided the only substantial federal support to meet desegregation-related needs. It further encouraged voluntary desegregation in school districts across the country.

In 1981, this program was eliminated as a separate program and was included along with more than 30 other categorical programs as part of the Chapter 2 block grant under the Omnibus Budget Reconciliation Act of 1981. As a result of its inclusion in the Chapter 2 block grant, assistance for desegregation efforts was sharply reduced. Because of Congressional concern that funding for this program was sharply reduced in the face of considerable need for desegregation assistance, in 1984 Congress passed the Magnet Schools Assistance Act as Title VII of the Education for Economic Security Act to provide once again federal assistance to school districts involved in desegregation efforts.

The establishment of this Act recognized that magnet schools have been the most successful form of voluntary desegregation to emerge from nationwide implementation of desegregation plans. As a result, the federal effort for desegregation assistance since 1985 has been in the form of discretionary grants awarded by the Department of Education to local school districts for magnet school programs that are part of an approved desegregation plan.

The purpose of the Magnet School Assistance Act is twofold:

1. To assist local educational agencies in the elimination, reduction, or prevention of minority group isolation in schools with substantial portions of minority students, and,

2. To support, through aid to desegregating local educational agencies, programs that strengthen academic and vocational education skills of students in magnet sites.

The reauthorization of the magnet school program restructures current law by designating current law as Part A and adding Part B, a new magnet school discretionary grant for local school districts that serve high concentrations of minority students, but that do not have magnet schools as part of an approved desegregation plan.

Part A—Magnet schools to overcome racial isolation

Reauthorization of current law is contained in Part A. The reauthorization provisions make modest changes to the present Act. The Committee is particularly concerned that the need for this program far exceeds the authorization level. Testimony before the Subcommittee indicated that in the 1986–87 school year, 126 districts applied for funding, but that due to funding constraints, only 38 were funded. The Committee therefore considers that the increase in authorization levels from the current $75 million to $115 million is the most important change contained in reauthorization.

The Committee heard extensive testimony during the reauthorization process on the success of the Magnet School program. Witnesses from Buffalo, Prince George's County in Maryland, Providence, and Indianapolis provided ample evidence that the program was meeting its twin objectives of desegregation and enhanced academic achievement. The Committee also undertook a serious internal review of the grant-awarding process in the Department of Education and the "special consideration" criteria used in judging applications. In addition, the Committee requested the General Accounting Office to assess this important process. GAO's briefings and subsequent report on this matter identified no issues that require legislative change. However, GAO's October 16, 1987, report identified certain grant award program weaknesses that the Committee believes the Department of Education can correct administratively. The GAO study found that additional time is needed to adequately evaluate grant proposals; that non-federal reviewers were more qualified in certain required areas of expertise than federal reviewers to evaluate magnet school grant applications; and that the lack of consistency in the manner in which information in desegregation plans is used to evaluate grant proposals can unfairly benefit one applicant over another.

The Committee would urge the Department of Education to give more careful consideration to the selection and training of proposal readers, to provide more time for the judging of proposals, and to give readers immediate access to the desegregation plans that accompany the proposals. The Committee believes that these changes will more closely align administration of the grant award process with the program's Congressional intent (to achieve voluntary desegregation and promote quality education) and better ensure a more thorough, equitable, and efficient review of magnet school grant applications.

Because past experience which indicates that this federal program has encouraged many school districts to implement desegregation plans voluntarily, the Committee believes that school districts which have not been funded in the past should be funded. The reauthorization bill, therefore, requires that out of new money for the program, the Secretary give special consideration to applications which have not previously been funded. This provision is not intended to siphon funds away from school districts that have been awarded funds in past competition cycles. Many of these school districts have received funds in each year of the program due to the need in their districts, the quality of the application, and the success of the program.

The reauthorization bill therefore requires that only in years in which appropriations exceed the current FY 87 funding level of $75 million, from the amount of the appropriations above $75 million, the Secretary shall give special consideration to applicants that were not funded in the previous fiscal year. It is clearly stated in statutory language that the Secretary shall not use previous funding as a factor in considerations regarding the award of the first $75 million. In awarding grants above $75 million, the Committee intends that the same standards for quality and need be used.

In addition, the reauthorization bill removes an out-of-date reference to the Emergency School Aid Act from the section of school district eligibility. Current law requires that school districts must have lost $1,000,000 when ESAA was consolidated into Chapter 2 in order to be eligible to apply for assistance. This is a technical change only and will have no effect on the awards in that no LEA is eligible solely on the basis of this criterion. In addition, this requirement has no practical effect. The other two eligibility requirements—that schools are under court order to implement a magnet school, or that schools have filed a voluntary plan with the Office of Civil Rights which includes magnet schools—still hold. Under current program regulations, districts that lost at least $1,000,000 when ESAA was consolidated are no longer given a preference in the award of Magnet Schools Assistance funds.

The reauthorization bill also makes clear that States may not reduce their allocations under Chapter 2 to school districts that receive Magnet Schools Assistance grants. Current law permits States to apply to the Secretary to waive this requirement. The Committee believes that a school district applying for funds under this act should not reduce the amount of desegregation assistance under Chapter 2 because of assistance made available under this Part.

The Committee has added additional language indicating that special consideration should be given to applications that demonstrate collaboration with institutions of higher education, community-based organizations, and SEA or other private organizations. The Committee believes that the involvement of these organizations can make a large contribution to the success of a desegregation plan. Testimony before the Subcommittee indicated that collaboration with higher education institutions has been particularly successful in this regard. While the Committee believes that this factor should not weigh as heavily as the current priorities of the program (the recentness of the implementaion of the plan; the proportion of minority group children involved in the approved plan; the need for assistance based on the expense or difficulty of carrying out an approved plan; and the degree to which the program affords promise of achieving the purpose of desegregation) the Committee believes that collaboration should be a consideration in awarding a grant.

In addition, the bill clarifies that while they must recompete for awards every two years, LEAs may use grant funds to maintain or operate ongoing activities. The Committee has added language to the bill that would cap an individual grant at $4.0 million per year, would begin the program year on July 1 rather than October 1, and would permit LEAs to carry over funds from the first to the second year of a program cycle without penalty.

Part B—Magnet schools for improvement

Sections 3101 through 3105 authorize a new program of Magnet Schools for educational improvement at $35 million. The Committee intends this new Magnet Schools Program to provide federal assistance to school districts with significant percentages of minority students that do not have a magnet school as part of an approved desegregation plan or that may not have a desegregation plan in place. This additional program under Part B will encourage these schools to develop and implement a magnet schools program. These programs are designed to promote open enrollment through parental choice. Funds received may be used for program improvement, the acquisition of new materials, and other activities aimed at enhancing the overall school curriculum. Special consideration must be given to applications from local educational agencies with minority enrollments above 60 percent. Awards under the program shall be made by the Secretary to LEAs, consortia of LEAs—including consortia formed because of a metropolitan-wide desegregation plan—or intermediate educational agencies.

It is clearly not the intent of the Committee to exclude LEAs with desegregation plans from applying for these funds but rather to support programming that emphasizes academic improvement and reduction in minority isolation via magnet schools, independent of the desegregation process.

Research has shown that magnet schools are the most successful means for promoting racial desegregation. In addition, they have contributed to academic improvement and excellence, and bring together students from diverse backgrounds.

It also is the intent of this Part to provide seed money to school districts such that they will continue to carry out this program when federal assistance is no longer available. Applicants are, therefore, required to describe in the application how the agency will devote its resources to continuing the program when federal funding is no longer available.

The Committee intends the authorization of this program to take effect only when appropriation for Part A reaches $100 million ($25 million above current appropriations). This will enable growth in the current program, particularly in the funding of new applications, before the new program is authorized. Although the Committee sees great value in the Magnet Schools for Improvement Program, the funding for the original Part A should take priority over Part B.

TITLE IV—IMPACT AID

Background and need for legislation

Impact Aid, first enacted in 1950, is among the nation's oldest federal education programs. The original program focused on two areas: (1) providing assistance for increased school-age populations resulting from nearby military activities; and (2) assisting districts that lost a significant amount of tax income because of federal ownership of property within its district. A companion law, Public Law 81–815, authorizes construction of schools in areas affected by federal activities.

In 1958, the program was expanded to include compensation to districts for certain children residing on Indian lands. In 1974, certain federally subsidized, low-rent, public housing properties were also included.

Impact Aid expenditures increased steadily from $104 million in FY 1950 to a high of over $825 million in FY 1980. With the Omnibus Budget Reconciliation Act of 1981, however, Impact Aid appropriations declined. In FY 1987, funding was $107.5 million below the 1980 funding level.

The sharp decline in available funds during this decade has left a huge gap between the entitlement and appropriations, with the present program being funded at approximately 50 percent of entitlement. In turn, this gap has placed an increasingly large burden upon the Appropriations Committee to determine annually how such limited funds are to be distributed. The result has been a series of complicated formulas which establish multiple classifications of students, districts, and payments.

The Committee believes that it is necessary to include a formula for distribution of Impact Aid funds directly in language authorizing the program. Such language would guarantee an equitable distribution of monies and provide school districts with a reasonable degree of certainty as to the amount of funding that would be available to their schools each year. This is particularly important because Impact Aid is not a forward funded program.

In addition, the Committee is concerned with the special burden placed on local school districts that educate federally connected handicapped children. In many cases, military families with handicapped children are given special assignments to school districts

that have outstanding special needs programs. While many LEAs welcome such children into their schools, the Committee is concerned that these districts assume a particularly large financial burden because of the special services required for these children. Although Public Law 81-874 entitles districts to a special 50 percent supplement to help defray these costs, full entitlement is rarely realized. It is the intent of the Committee, therefore, to insure that all LEAs educating Impact Aid handicapped children receive 100 percent of their entitlement.

The funding levels of the last decade have had a particularly large impact on "regular districts" (districts with less than 15 percent A or 20 percent B children). As the Committee looks ahead to a continuously restricted pool of money, it wishes to establish a floor below which districts will not fall. This reauthorization proposal sets a minimum amount of funding that is to be available to all classifications of school districts with federally connected children. Although the new payment schedule, which is incorporated in this bill, clearly sets a priority for those districts that are most heavily impacted, it also guarantees that all districts share in both the gains and losses of overall Impact Aid funding.

The Committee is also concerned with protecting several heavily impacted districts that are especially dependent upon Impact Aid funds to keep their school doors open. Among these are 3(d)(2)(B) districts (districts with over 50 percent fedrally connected children who, despite reasonable tax efforts, are unable to maintain a level of education equal to that of the state average or three comparable districts), coterminous districts, 3(d)(3)(B)(ii) districts (districts with unusual geographic circumstances), and districts that receive special supplements for either handicapped children or children from Indian lands. Title IV provides special protections for each of these classes of districts.

In designing a new payment schedule, the Committee does not wish to cause a large or sudden shift in the manner in which funds are distributed. This is of particular importance for A districts and Super B districts that are heavily dependent on this funding. To guarantee that a sharp redistribution does not occur, all A districts and Super B districts will be held-harmless at their 1987 per-pupil payment levels.

Finally, there has been a great deal of concern in recent years among the many recipients of Impact Aid as to the effectiveness of certain GEPA provisions for the Impact Aid Program. Impact Aid funds are mailed directly from the Department of Education to local school districts rather than to states. Thus, the normal procedure for notifying states of the minimum 30-day comment period for new regulations does not always allow sufficient time for local districts to receive the proposals and prepare proper comments. The problem is compounded by the complexity of the Impact Aid formula, making it all the more difficult for the true effect of proposed changes to be measured quickly.

In addition, because Impact Aid is not forward funded, new regulations can affect the amount of money school districts receive for the current school year. In the past, this has left some school systems with an immediate shortfall of funds. Title IV outlines new provisions that must be followed by the Department of Education

when issuing regulations. These include a mandatory 90-day comment period and a provision that no regulations are to take place prior to the fiscal year following final publication.

Committee views

Title IV of S. 373 reauthorizes the two Impact Aid Programs Public Laws 81-874 and 81-815—for fiscal years 1989-1993. Authorization levels for Public Law 81-874 are set at $800 million for FY 1989, $840 million for FY 1990, $880 million for 1991, $925 million for FY 1992, and $970 million for FY 1993. Authorization levels for Public Law 81-815 are $25 million for FY 1989, $26 million for FY 1990, $27 million for FY 1991, $28 million for FY 1992, and $29 million for FY 1993.

Section 2

Section 2 changes are intended to make more equitable analyses of the actual impact that the acquisition of federal property has had on local districts' ability to generate revenue, by establishing procedures the Secretary must follow when determining property value for the purpose of this section.

Entitlement levels for federally connected children

In the past several years, there has been a great deal of discussion as to the proper entitlement levels for A and B students. In addition, appropriations language has been rewritten almost every year to further divide these two categories into 16 sub-categories. The Committee wishes to simplify these by assigning all children to either the A group (students whose parents live and work on federal property or are from Indian lands) or to the B group (students whose parents live or work on federal property). Entitlement levels are set at 100 percent of the Local Contribution Rate times the number of 3(a) children in that district and 25 percent of the Local Contribution Rate times the number of 3(b) children in that district. (Local Contribution Rate is that portion of the per pupil cost which is generated locally—predominantely from real property taxes.)

The Committee also wishes to express its strong support for the supplementary entitlement in current law of 25 percent for Indian students and 50 percent for handicapped students.

Handicapped children

The Committee wishes to highlight its particular concern for the additional financial burden placed on school districts that educate federally connected handicapped children. In many cases, military families with handicapped children are given special assignments to areas with school districts that have outstanding special needs programs. While many districts welcome such children into their schools, the Committee is concerned that these districts assume a particularly large financial burden because of the special services required for these children. Although current law entitles districts to a 50 percent supplement for these children, entitlement is rarely received. Therefore, this bill requires that payments for handicapped children be made at full entitlement (150 percent) before any other Section 3 payments are made.

Entitlement levels for certain districts

The Committeee is interested in protecting several heavily impacted districts that are particularly dependent upon Impact Aid. Among these are 3(d)(2)(B) districts, districts with over 50 percent federally connected children who, despite reasonable tax efforts, are unable to maintain a level of education equivalent to comparable school districts within the state. This bill defines reasonable tax effort as one which is at least 80 percent of the state average or that of three comparable districts. The bill also states that the 3(d)(2)(B) supplement must be sufficient to bring the district up to at least the state average or that of three comparable districts, whichever is greater.

The Committee also believes it important that 3(d)(2)(B) districts be allowed to have a cash position to provide for the smooth operation of their schools. This bill establishes 30 percent as a reasonable ceiling for those states without any limit. It is not the intent of the Committee that the Impact Aid Program decrease cash positions below 30 percent when tabulating 3(d)(2)(B) payments. It is also not the Committee's intent to increase the cash position of any district by such payment.

In specifying the standard for computing the increase in payment for a school district under section 3(d)(2)(B), the Committee intends this standard to be applicable only to that provision. In Section 3(d)(3)(B)(ii), which provides increased funding for a school district in which unusual geographic factors add noncomparably to its cost of education, the computation of the increase in the local contribution rate is based solely on the actual increases in expenditures necessitated by the impact of the unusual geographic factors upon the cost of education in the school district, divided by the total average daily attendance.

Section 3(d)(3)(B)(ii) is amended further to require the Secretary to make payments to any LEA that qualifies under the terms of such section. Under current law, the Secretary is authorized, but not required, to take such action. This technical amendment was made to other sections of the Impact Aid law in previous reauthorizations and the Committee wishes to make a parallel change to this section.

Finally, the Committee wishes to establish a floor below which coterminous military districts shall not fall. The bill, therefore, states that the Local Contribution Rate for coterminous agencies shall not be less than 70 percent of the average per-pupil expenditure in the state.

Payment distribution

It is the intent of the Committee to provide a thorough method for the distribution of funds for times when Impact Aid is funded below entitlement. The payment system is intended to guarantee that all districts share in overall losses and gains in the Impact Aid program, while at the same time setting a clear priority for those districts that are most heavily impacted.

When making payments, the Secretary must first pay to each local educational agency serving handicapped children full entitlement for such children, as well as 100 percent of the entitlement

for Section 2 districts. Then, section 3(d)(2)(B) districts are to receive 100 percent of their 3(a) and 3(b) entitlement. Coterminous districts are to be paid 100 percent of their entitlement. Of the funds remaining, 80 percent is to be reserved for "A" children and 20 percent for "B" children.

The available "A" funds are then to be distributed as follows:

	Percentage of entitlement		
	Step 1	Step 2	Step 3
Percentage of "A" children in District:			
20 to 100 (super A's)	80	20	0
15 to 19.9 (sub-super A's)	60	15	25
0 to 14.9 (regular A's)	40	10	50

The "B" funds are to be distributed as follows:

	Percentage of entitlement		
	Step 1	Step 2	Step 3
Percentage of "B" children in District:			
20 to 100	20	30	50
0 to 19.9	10	5	85

If there is not enough money available to fully fund any of the above steps, the money is to be distributed according to the schedule outlined in Section 4006(d)(4).

The bill also establishes the conditions under which Impact Aid payments may be considered in State equalization formulas. First, states may consider payments as part of the local contribution rate only if the state insures that district per pupil expenditure is at or above the state average. Because such consideration reduces the amount of funding an equalized state must provide, the Committee wishes to extend this benefit only to those states that are guaranteeing Impact Aid children an education equivalent to the state average.

The Committee further wishes to protect the special supplements for handicapped children, 3(d)(2)(B) and 3(d)(3)(B)(ii) districts, and those who live on Indian lands from consideration in equalization formulas. The intent of these supplements is to give additional funding for special needs. Allowing the supplement to be deducted from state aid payments would have the effect of receiving no such supplement at all.

The Committee also wishes to prevent any sudden or drastic shifting in funds, especially among those most dependent upon Impact Aid monies. The bill, therefore, holds-harmless all "A" and "Super B" districts at their 1987 per pupil amount paid provided that such districts still remain in their 1987 classifications. If available funds are insufficient to pay this amount, then the amount paid shall be ratably reduced.

Section 6 funds

This bill would allow Section 6 funds to be available for Section 3 schools if the Department of Defense chooses to provide such funds.

In no case does the Committee intend for Section 6 schools which are fully funded and operated by the Department of Defense to be eligible to receive Section 3 funds.

Disaster assistance

Current law allows disaster assistance funds to be provided in cases in which damage is at least $1,000 or one-half of 1 percent of an agency's current operating expenses. This bill would update these figures to $10,000 or 5 per centum for both Section 7 of Public Law 81-874 and Section 16 of Public Law 81-815. These updates are meant to reflect current practice and are no indication of a declining commitment on the part of the Committee to this program.

Regarding issuance of regulations

The Committee is concerned about whether the procedures governing the issuance of new regulations are appropriate for Impact Aid. Specifically, there have been problems with program recipients preparing proper comments within the 30 day minimum comment period required by GEPA. This seems to be a particular problem with the Impact Aid program for two reasons. First, Impact Aid payments are mailed directly from the Department of Education to local school districts rather than to states. Thus the normal procedure for notifying states of comment periods does not always allow sufficient time for a local district to receive the proposals and prepare a response. Second, the complexity of the Impact Aid formula makes it all the more difficult for the effect of proposed changes to be measured quickly.

The Committee is also concerned with the effect that new regulations have had on Impact Aid awards that were made in previous years. As Impact Aid is not forward-funded, payments are received at the end of the school year rather than at the beginning. In the past, this has meant that new regulations issued at the end of the academic year have affected immediately the amount of funds districts receive, leaving some districts with a shortfall of funds.

The bill, then, requires a mandatory comment period of 90 days, with new regulations taking effect only in the fiscal year following final publication. It is hoped that, through these new procedures, districts will have an adequate amount of time to comment on proposed regulations and will also have time to prepare for any resulting shifts in funds.

It is the intent of the Committee that the Department of Education shall develop and establish rules and regulations regarding the reauthorized Public Law 81-874 in time for FY 1989.

Public Law 81-815

Part B of this bill makes technical and conforming changes to Public law 81-815, including a provision updating disaster assistance provisions to current practice (see above). Authorization levels are established at $25 million for FY 1989, $26 million for FY 1990, $27 million for FY 1991, $28 million for FY 1992, and $29 million for FY 1993.

TITLE V—ADULT AND VOCATIONAL EDUCATION

A. Background

The Adult Education Act is the primary federal program to alleviate the problem of adult illiteracy. Since 1966, the Adult Education Act has provided funds to help state educational agencies (SEAs) establish and expand programs to benefit educationally disadvantaged adults. These programs are intended to provide adults with the basic skills necessary to function in society, enabling them to complete secondary school and profit from employment-related training. Adult education programs serve approximately 2.8 million people annually. The Act was last amended in 1984.

Under the Adult Education Act, grants are made to States with federally approved State plans, on the basis of a formula which takes into account the number of adults without high school diplomas. Programs are carried out by local educational agencies and by other public or private nonprofit or for-profit agencies. State plans must be submitted to the Secretary of Education and contain specific administrative, operational, and data reporting information about the adult education program at the state and local level. States may use Adult Education Act funds to support an advisory council in planning, implementing, or evaluating programs and activities.

Activities under the Adult Education Act are limited to adult education or educational programs below the college level for adults. Special emphasis is placed on adult basic education, programs for adults whose inability to speak, read, or write the English language constitutes a substantial impairment of their ability to get or retain employment commensurate with their real ability. No more than 20 percent of the funds may be used for high school equivalency, with the remainder devoted to basic skills and literacy programs.

B. Need for legislation

Recently the Nation has become more aware of the distressing number of Americans who cannot read and write well enough to participate in the most basic economic and social activities. The Subcommittee on Education, Arts, and Humanities was in the forefront of calling attention to this problem, conducting five joint hearings on the problem of illiteracy in America with the House Subcommittee on Elementary, Secondary, and Vocational Education in the 99th Congress and one oversight hearing in the 100th Congress.

Despite national awareness of the problem, there is no consensus on what constitutes illiteracy or how many people are illiterate. Estimates range from 20 million up to 79 million Americans who are functionally illiterate. There is growing realization that illiteracy is a drain on our economy. The Nation spends approximately $7 billion annually to maintain 750,000 illiterate adults in prison. The annual cost of welfare programs and unemployment compensation due to illiteracy is estimated at approximately $6 billion. The business community spends an estimated $10 billion annually to address the lack of basic skills among the workforce.

The complexity of the low-literacy problem and the adult illiteracy problem in this country pose a serious threat to our national productivity, security and welfare:

People with less than six years of schooling are four times more likely than others to be on welfare;

50 percent of those in prison are functionally illiterate and 75 percent have not completed high school;

85 percent of juveniles who go into court are illiterate;

75 percent of the unemployed have inadequate reading, writing, and computation skills necessary for retraining for high-technology jobs.

Additional, illiteracy is a danger to our national security because many soldiers cannot even begin the training they need to handle sophisticated military equipment. It is a threat to our democracy because illiterate persons are unable to participate in the political process, to make informed choices, and exercise their Constitutional rights.

Illiteracy also exacts human costs, when a parent cannot read to a child, a worker cannot fill out a job application, or a senior citizen cannot read a prescription.

The Adult Education Act has provided federal seed money to encourage the growth of publicly supported state and local programs to fight illiteracy. According to the last national evaluation of the program, completed in 1980, the program appears to benefit a large number of adults at a remarkably low Federal cost.

Because of the success of the design of the Adult Education Act, the Committee felt that major changes were not needed in the structure of the legislation. The Act is of critical importance in the fight against illiteracy and unanimously agreed to its reauthorization for five more years.

C. Explanation of the bill

S. 373 reauthorizes the Adult Education Act for five more years at increased funding levels as follows: $200 million for fiscal year 1989; $210 million for fiscal year 1990; $225 million for fiscal year 1991; $235 million for fiscal year 1992; and $245 million for fiscal year 1993. This increase in authorization from the current appropriations of $112 million indicates the importance members of the Committee place on this program to help meet the needs of illiterate Americans.

The bill changes the definition of an eligible adult to clarify that individuals who are enrolled in secondary school are not eligible for services under this Act. No change is made in the formula for distributing funds to states under this Act.

A change is made to clarify that programs that assist limited-English-proficient adults may be conducted exclusively in English, in addition to those providing instruction in the individuals's native language. The bill also clarifies that service providers can implement a program designed to allow limited-English-proficient adults both to achieve English mastery and progress through the adult education program. Without this clarification, it could be interpreted that service providers must first teach English to limited-

English-proficient adults before they would be allowed to provide them with training in adult basic education.

The bill provides a transition rule so that states with approved state plans for the period of July 1, 1985 through June 30, 1988 can have those plans extended for one more year through June 30, 1989. This would allow requiring states to avoid to file a new three-year plan just before the implementation of the new amendments, when the plans would have to be revised.

S. 373 reduces the federal share from 90 to 75 percent. All states are currently overmatching and some states are almost matching the federal contribution dollar for dollar. The Committee believes that this is a vitally important program and that by requiring a greater state match, at a still very reasonable level, more resources will be available for literacy projects.

The bill changes the maintenance of effort provision, which requires that states spend the same amount of money as in the previous year on adult education services. The bill reduces the required maintenance of effort from 100 percent to 90 percent. This change is made to take into account the circumstances that occasionally arise in which a state is unable, because of unforeseen economic problems, to meet the full 100 percent maintenance of effort requirement. Under this change, a state would not be penalized if it has a year during which it could not match at least 90 percent of its previous year's expenditure for this program. This change is made also in recognition of the fact that many states have overmatched the federal contribution.

The bill sets a limit on allowable administrative expenses beginning in fiscal year 1991. State educational agencies may use no more than five percent of the state's grant or $50,000, whichever is greater for state administration. The Committee has been concerned that some states are using more than this amount for administration and wants to insure that the bulk of federal funds is used for program services. This provision will become effective in 1991, so that states will have time to change their administrative practices and reduce expenditures, if necessary. The Committee also recognizes that a number of states use significantly less than five percent, and urges those states to keep their use of funds for administrative purposes as low as possible, and commends those states for those efforts.

The bill includes a set-aside for corrections education and programs for institutionalized individuals. The current set-aside of "not more than 20 percent" is changed to provide that no less than 10% of the funds provided for Adult Education shall be used for corrections education and the education of other institutionalized individuals.

The Committee notes with great concern that the United States currently spends $8 billion a year to house inmates in state correctional facilities, local jails, and federal institutions and centers. This amounts to almost $14,000 a year for the more than 600,000 incarcerated men and women, exclusive of capital costs, i.e., the cost of the prison building. On the average, the United States spends two and one-half times as much money on keeping a person in prison than on sending a young man or woman to college.

Little of the money spent on incarceration goes into education. An average state spends less than 5% of its correctional budget on inmate education. As a result, less than one-third of the inmate population participates in educational programs.

The absence of strong educational programs contributes considerably to the revolving prison door through which a person enters and leaves prison iil-equipped to become a responsible citizen. Upwards of 70 percent of the offenders released from prison each year will return to crime, and as many as 50 percent will return to prison within one year.

The unemployment rate among ex-offenders is three times the rate of that for the general public. Those that do find jobs often work in low-income, semi-skilled positions. Without adequate education and training, they have little alternative.

The Committee believes that this situation can be changed. It is aware of studies in California, Maryland, New Mexico, Texas and Washington that correlate a reduction in the recidivism rate with the education and training received by inmates while in prison.

The Committee also believes that the setaside in the Adult Education provisions of S. 373 is a substantive, meaningful step to making sure that education and training programs are provided to the incarcerated. It will insure a steady flow of funds for corrections education and for other institutionalized individuals.

While its primary emphasis is upon education in a corrections setting, the Committee emphasizes its intent that the educational needs of other institutionalized individuals, such as persons who may be hospitalized for mental illness, alcoholism, or drug treatment, also be addressed through this set-aside.

The bill also includes an authorization of $2 million for programs of Research, Development, Demonstration, Dissemination, and Evaluation. This program has not been funded, as funding of it was contingent upon an increase in appropriations. The Committee hopes that with a separate authorization, funds will be appropriated for this program so that the Secretary of Education can fund programs of national importance.

The Committee strongly recommends that programs funded through the Adult Education Act coordinate efforts with other federal, state and local literacy programs, including, but not limited to, the Job Training Partnership Act, the Vocational Education Act, the voluntary literacy sector, VISTA and libraries. Such coordination should be indicated in the State application.

The Committee also recommends that funds for community-based partnerships, which provide one-to-one tutorial service to any adult seeking literacy help, should be formed between postsecondary institutions and employment service agencies, local social service agencies, the local private industry councils and/or local volunteers. These partnerships should be formed to deliver free tutorial literacy services at flexible hours at a variety of locations in communities so that individuals can receive help near their homes or places of employment.

Finally, the bill repeals the authority for the National Advisory Council on Adult Education. This action is consistent with the repeal of the National Advisory and Coordinating Council on Bilingual Education and the National Advisory Council on Women's

Educational Programs and reflects an effort on the part of the Committee to focus scarce resources on program delivery.

Section 5006. Workplace literacy grants

America today stands on the brink of a socio-economic transformation unparalleled since the Industrial Revolution. We are becoming a nation of words and information: a nation whose ability to develop and utilize new technologies will largely determine our future economic growth, employment opportunities, and our relative standing in a highly competitive world economy. According to the Bureau of Labor Statistics, the technology-dependent service sector will provide nine out of ten new jobs between now and the year 2000. More specifically, BLS estimates that by the end of this century, three out of four jobs will require knowledge of advanced technologies, as opposed to one in five jobs today. These are jobs in computer-specific fields like systems analysis and programming, which are projected to increase in number by 70 percent in this dacade alone. But as advanced technology pervades every sector of our economy, there will be many more jobs in a wide variety of fields for which basic technological literacy will be the bottom line.

As these landmark economic changes take place, many Americans will be faced with new demands and opportunities in the workplace for which many are ill-prepared. Most will need to adapt to technology-based changes either in their current jobs or in new positions created during this massive economic transition. And virtually all workers will need an unprecedented level of basic skills in order to perform their new job tasks.

In order to help Americans cope with these changes, and to insure a stable pool of qualified workers for American industry, our nation must expand the teaching of literacy skills and new technologies. This is not a goal which can be achieved by government alone. Real and long-term solutions require effective partnerships involving government at all levels, local schools and communities, and the business and perspectives that each sector has to offer.

The Committee believes that the American workplace is an ideal forum for the ongoing training of American workers in relevant literacy skills. Businesses, workers, and their representatives have unique opportunities to cooperate at this level. They know best the new skills that are and will be required in particular industries and have a direct financial stake in the future productivity of the American workforce. Literacy programs conducted in the workplace also offer an attractive and non-disruptive means of training American workers, thereby encouraging all sides to expend precious human and financial capital to make these training programs work. And unlike traditional forms of instruction, on-site programs offer American workers the opportunity to expand their skills at minimum cost, without affecting their family schedules and responsibilities.

The Committee has included in S. 373 an amendment to the Adult Education Act which would establish a demonstration grant program for workplace literacy partnerships. The amendment grant authorizes $30 million for fiscal year 1988 for this purpose, $31.5 million for fiscal year 1989, and "such sums as may be neces-

sary" for each of fiscal years 1990 through 1993. For those fiscal years in which appropriations for workplace literacy partnerships are less than $50 million, this would be a discretionary grant program. Should annual appropriations exceed $50 million, this partnership section would become a state grant program. However, in order to preserve adequate funding for existing adult education programs, the Committee directs that this new program receive federal funds for the Adult Education Act exceed $110 million.

Partnerships funded under this program would include a business, industry, labor organization, or private industry council and a state educational agency, local educational agency, institution of higher education or school. Partnership projects would be designed to improve literacy skills needed in the workplace through adult literacy and other basic skills services, programs, which lead to the completion of a high school diploma or its equivalent, programs to serve adults with limited English proficiency, and programs to help workers cope with technological changes. Partnership funds would also be used to provide educational counseling, transportation, and child care services to adult workers while they participate in the aforementioned programs. Federal funds would be used to pay 70 percent of the cost of partnership programs a well as administrative costs incurred by state and local educational agencies in establishing the literacy projects.

Section 5007. English literacy grants

The bill also adds a new grant program to provide $25 million to states for the planning, implementation and development of English literacy to serve the needs of the approximately 10 million individuals of limited English proficiency in the United States. Half of the funds to be awarded by the State are set aside for community-based organizations to operate such programs.

The need for this assistance is considerable. Studies by the Department of Education estimate that the illiteracy rate among adults whose first language is not English is 48 percent, compared to 9 percent for those whose native language is English. Unfortunately, many of these individuals cannot be served under the Adult Basic Education program due to funding constraints. Thousands of prospective students, many of them recent immigrants, are on waiting lists for these programs. In addition, the recently passed immigration law will increase the number of non-English speakers seeking language instruction.

This Part authorizes $25 million in grants to State educational agencies for the planning, implementation and development of English literacy programs for adults who are of limited English proficiency. Each state receiving a grant shall be required to use up to 50 percent of its allocation for programs operated by community-based organizations.

Section 5009. Adult education for the homeless

This section amends the allocation formula under Section 702(c)(2) of the Stewart B. McKinney Homeless Act. This Section authorizes a state grant program to provide literacy instruction for homeless adults. The current allocation requires that the Department of

Education distribute funds to the States based on the count of homeless adults.

The Committee recognizes that the current allocation formula presents problems for two reasons. First, it is virtually impossible for the Department of Education to allocate money on the basis of a homeless count. These figures are hard to document and therefore very difficult to verify. The second problem is that the authorization for this program is so small that a state grant program would have little impact. Most states would get a very small sum of money to provide these services, with the result that the money would be wasted. Because of the problems with the current formula, the Committee deleted entirely the language with respect to state allocations. This would permit the Secretary to provide discretionary grants for a literacy program for the homeless.

It is clearly the intent of the Committee that in the absence of the state grant formula language, the Secretary shall make grants to State educational agencies to provide literacy instruction for the homeless. Each state educational agency desiring to submit an application shall include its best estimate of the number and percent of homeless adults within the state by school district. For the purposes of this count, an eligible homeless adult is an individual who does not possess a high school diploma, a GED or the basic education skills to obtain full-time meaningful employment. In addition, this person must lack a fixed, regular nighttime residence that is: a publicly supervised or privately operated shelter designed to provide temporary living accommodations; or an institution that provides a temporary living residence for individuals intended to be institutionalized; or a public or private place not designed for or ordinarily used as a regular sleeping place.

In awarding the grant, the Secretary shall take into account the relative need of services as indicated by the number or percentage of individuals to be served and the quality of the proposed project.

Part B—Vocateional education

Section 5101 is a clarifying amendment of Section 202 of the Carl D. Perkins Vocational Education Act.

The Committee intends this provision to clarify the ambiguity which has hampered full implementation of the set-aside of funds for displaced homemakers and single parents under Section 202 of the Carl D. Perkins Vocational Education Act. It will guarantee that one group, single pregnant women (including pregnant teenagers) are eligible to receive vocational education services funded by this set-aside.

TITLE VI—EDUCATION FOR ECONOMIC SECURITY ACT

Background

Mathematics and science instruction

International comparisons with respect to mathematics and science instruction reflect poorly on the United States. Japanese high school students take more advanced math—including calculus—than most American college students. In fact, Japan graduates more engineers than the United States, even though its population

is only half of ours. The average American high school student takes one year of geometry compared to the Soviet student's ten-year geometry curriculum. In a recent survey of experts on comparative education conducted by U.S. News and World Report, the United States ranked below Japan, the Soviet Union, West Germany, and France in both mathematics and science education.

Our standards in these areas fall short, and the need to upgrade instruction in these disciplines is acute. Only one-third of our high schools require more than one year of mathematics or science. An astounding forty percent of the teaching positions in mathematics are vacant or filled by unqualified teachers.

To address this situation, the Robert T. Stafford Elementary and Secondary Education Improvement Act reauthorizes the Education for Economic Security Act through fiscal year 1993. This Act provides grants to state and local educational agencies and state higher education agencies to upgrade instruction in mathematics, science, computer education, and foreign languages. Current appropriations for this program are $80 million, far short of its authorization. The Committee believes that this program is seriously handicapped by inadequate funding and strongly encourages a substantial increase in allocation.

Explanation of legislation

Part A—Education for Economic Security Act

Under Section 6002 the Committee has reauthorized Title II of the Education for Economic Security Act at $330 million in fiscal year 1988 with five percent increases for each fiscal year through 1993. Current law authorizes formula grants to state and local educational agencies and to state higher education agencies or their equivalents to upgrade instruction in mathematics, science, foreign languages, and computer education. This program is administered by the Department of Education. Because the omnibus reauthorization bill creates a new separate authorization for foreign language programs in elementary and secondary schools, the Commitee has restricted use of funds under the Education for Economic Security Act to mathematics, science, and computer education. In addition, the reauthorization bill makes changes to the apportionment of funds among SEAs, LEAs, state higher education agencies, and the Secretary's discretionary fund. S. 373 changes the distribution of funds in the following manner: 1 percent of the total allocation is reserved for the Territories, 4 percent is reserved for the Secretary's discretionary fund. The remaining 95 percent of the allocation is distributed to the states in the following manner: 75 percent of the State allotment is to be used by the state educational agency principally for the improvement and expansion of inservice training and retraining of existing teachers in elementary and secondary schools at the local educational agency level. The remaining 25 percent of the State allotment is to be used by the State agency for higher education for programs, principally operated by institutions of higher education, for inservice training of elementary, scondary and vocational school teachers, training of mathematics and science teachers at the secondary level, and traineeships for prospec-

tive teachers who intend to specialize in teaching mathematics or science at the secondary level.

The Committee wishes to emphasize the importance of the role of the state higher education agency in strengthening mathematics and science in the elementary and secondary schools. The primary purpose of the Education for Economic Security Act is to strengthen mathematics and science instruction by expanding the availability of training, retraining, and inservice training programs for teachers or prospective teachers in mathematics and science. This is best accomplished through course work offered in higher education institutions. Testimony before an oversight hearing on the Education for a Competitive America Act—the education components of the trade bill, which called for, among other things, a straight reauthorization of the Education for Economic Security Act—illustrated the importance of the higher education role. That testimony indicated that mathematics and science teachers faced high demand for increased preparation in their fields through inservice training. In many states, under the leadership of the state higher education agency, there is strong coordination between higher education institutions and elementary and secondary schools in the area in implementing teacher inservice training programs in mathematics and science.

At the same time, the Committee believes that in carrying out the intent of the program, the maximum authority for the use of funds should rest in the hands of the local educational agencies. The Committee believes that each local educational agency can best determine its own needs with respect to upgrading instruction. The 25/75 percent split between the state higher education agency and the SEA (including the requirement that the SEA distribute 90 percent of its funds to the LEA) is the optimum method of apportionment. In this manner, the local educational agency has control over decisions regarding subject matter, who receives training, and the means by which they will be trained. The 25 percent reserved for the state higher education agency insures that quality programs will be available should LEAs decide to train their workforce through higher education institutions.

The Committee recognizes the important role that upgrading mathematics and science instruction plays in strengthening our trade position. In that regard, the most important provision of this section is the authorization level of $330 million. To meet this goal, the Committee believes that it is critically important that sufficient funds be appropriated for this program to insure its impact on the quality of instruction in mathematics and science throughout the country. It is with this in mind that the Committee strongly recommends a full appropriation for this program of $330 million.

The reauthorization figure of $330 million is $20 million below its current authorization. The Committee believes it is reasonable to make this change in the authorization level because the fiscal year 1987 appropriation for this program is $80 million, and the Senate-passed fiscal year 1988 appropriation figure for this program is $150 million, both of which are far below the reauthorization figure under this Act.

In addition, Section 6003 of this Title reauthorizes Title III of the Education for Economic Security Act, "Partnerships in Education for Mathematics, Science and Engineering" at an authorization level of $20 million for fiscal year 1988 and such sums as may be necessary to carry out the program for each subsequent fiscal year through 1993. This title authorizes a program of matching federal grants to local educational agencies, institutions of higher education and states which establish Partnerships in Education. Partnerships in Education will encourage cooperation among local and state officials, educators, and industry leaders to improve the quality of mathematics, science and engineering education. Funding will be provided on a matching basis: the federal share shall be 50 percent, 30 percent shall be provided by business contributions, and 20 percent from any other non-federal sources.

The Committee believes that business and industry, higher education institutions, state and local educational agencies and other community agencies should work in concert to improve mathematics and science instruction. This title is designed to encourage and facilitate such partnerships.

Section 6005—Star schools

Star Schools Program Assistance Act

Summary

The Star Schools Programs Assistance Act is added as a new title IX to the Education for Economic Security Act. The Star Schools Program addresses two critical needs in the rebuilding of our educational system to meet domestic and international challenges. The Nation's students must have access to basic and advanced courses in mathematics, science, and foreign languages, and these courses must be of the highest quality.

The Star Schools Program would provide demonstration grants to partnerships, including educational institutions, educational agencies, and entities with telecommunications networking expertise. These partnerships will use telecommunications technology (satellite, microwave, fiber optic, cable technologies, and others) to deliver courses in mathematics, science, foreign language, and other subject areas to elementary and secondary schools, particularly those serving disadvantaged students, those with scarce resources, and those with limited access to courses in these critical subject areas, as well as to institutions of higher education, to teacher training centers and to industry. Not only would instructional programs for students be made available through the Star Schools Program, but teachers would receive the additional training they need to better serve their students, and employees would be able to upgrade their skills, retrain for new jobs, or earn advanced degrees without leaving the work site.

The program would authorize $100 million over the 4-year period. FY 1989 through FY 1992, with a $60 million limit on any annual appropriation. Any individual demonstration grant could not exceed $10 million in any single year, and may be renewed for a second year for a total maximum award of $20 million. Such grants would be used to purchase telecommunications hardware, to

develop programming for use on such a network, and for technical assistance to train elementary and secondary school teachers in the use of telecommunications facilities. Priority for the awarding of grants would be given to those partnerships whose networks would serve more than one state.

Each partnership must report to the U.S. Secretary of Education all available courses of instruction and materials transmitted by satellite, indicating the satellite on which they will be transmitted and the time of transmission. The Secretary is to compile and disseminate this information to all State educational agencies. This will allow states which are not formally a part of a network but which have satellite receiving facilities to benefit by being able to access programming being transmitted over a satellite.

The Office of Technology Assessment, upon request, is to evaluate the telecommunications networks supported by the demonstration grants, and to study the feasibility of building and launching a satellite dedicated for educational purposes.

Legislative history

The Senate Labor and Human Resources Committee held two hearings directly focused on the use of telecommunications technology to address critical needs within our Nation's educational system—one in Charlestown, Massachusetts on February 27, 1987; the second in Washington, D.C. on March 11, 1987. This program was considered by the Senate as a freestanding bill, S. 778 with accompanying report 100–44, and was passed by the Senate by a vote of 77–16 on April 23, 1987. It was also included in the 'Omnibus Trade and Competitiveness Act of 1987', H.R. 3, passed by the Senate on July 21, 1987. It is included in S. 373 because it is a new title to the Education for Economic Security Act which is reauthorized herein. The Star Schools Program included in this bill reflects an amendment made by the Subcommittee on Education, Arts and Humanities.

Background and need for the legislation

Today the Nation is engaged in a major effort to strengthen and rebuild its system of elementary, secondary, and higher education. Much of the effort to improve schools is focused on mathematics, science and technology. In its 1983 report entitled "Educating Americans for the 21st Century", the National Science Board Commission on Precollege Education in Mathematics, Science and Technology put it bluntly:

> Alarming numbers of young Americans are ill-equipped to work in, contribute to, profit from and enjoy our increasingly technological society. Far too many emerge from the Nation's elementary and secondary schools with an inadequate grounding in mathematics, science and technology. As a result, they lack sufficient knowledge to acquire the training, skills and understanding that are needed today and will be even more critically needed in the 21st century. This situation must not continue—improved preparation of all students in the fields of mathematics, science and technology is essential to the mainte-

79-429 - 87 - 3

> nance and development of our Nation's economic strength, to its military security, to its continued commitment to the democratic ideal of an informed and participating citizenry and to fulfilling personal lives for its people.

Students' lack of understanding and lack of preparation are not limited to the mathematical and scientific areas of the curriculum. Instruction in foreign languages, critical to a nation engaged in an international economic marketplace, is another important weakness of the educational system. The National Commission on Excellence in Education, in "A Nation At Risk", stated, with regard to acquiring proficiency in a foreign language:

> We believe it is desirable that students achieve such proficiency because study of a foreign language introduces students to non-English-speaking cultures, heightens awareness and comprehension of one's native tongue, and serves the Nation's needs in commerce, diplomacy, defense, and education.

It is clear that our students have two fundamental needs—access and quality. They must have far greater exposure to mathematics, science, and foreign language courses, particularly at advanced levels. They must also be able to take courses in these subject areas that are of the highest quality. While State actions to increase requirements for high school graduation are laudable, they may be ineffective if (1) the required courses are not offered in all our high schools, (2) the standards act, not as floors, but as ambition-stifling ceilings, or (3) the requirements are met through skillful renaming of inadequate courses.

A survey by the U.S. Department of Education demonstrates the dilemma. The Department found that of the Nation's approximately 15,667 secondary schools only 5,576 or 36 percent offered a physics course, and 13,999 or 89 percent offered a chemistry course. Not surprisingly, the National Science Board, in 'Science Indicators: The 1985 Report', concluded that most students have no exposure to science beyond the 10th grade.

The same findings apply to foreign languages and mathematics, particularly advanced courses. Although most experts believe that more than 2 years of foreign language study is necessary to acquire real proficiency, 1982 high school seniors throughout their high school careers had completed, on average, only about 1 year of instruction in a foreign language. Only 28 percent had more than 2 years of foreign language study. In the early 1980s, 28 percent of high school students attended schools not offering third-year Spanish; 35 percent attended schools without third-year French; and 61 percent attended schools not providing third-year German. Languages other than these are even less likely to be available in our high schools. For example, only 5 percent of all high school students had access to Russian language courses in their schools.

With regard to mathematics study, the story is similar. Recent data show that high school graduates take on average about 2.7 years of mathematics; those aiming for college take slightly more. Significantly, relatively few high school students take advanced

mathematics courses, such as algebra II (only 31 percent), trigonometry (only 7 percent), or calculus (only 6 percent).

Startlingly, when compared with students in other countries, studies indicate that students in the U.S. have not been given the same opportunity to learn as their counterparts abroad. The International Association for the Evaluation of Education Achievement reports that among eighth grade students, the opportunity to learn algebra in the U.S. ranked 12th lowest of 16 developed nations. Among twelfth grade college preparatory mathematics students, the U.S. ranked 11th lowest out of 12 developed countries in providing the opportunity to learn elementary functions and calculus.

Moreover, these are national averages. The situation appears to be worse for various sub-groups of students and communities. Racial and ethnic minorities are much less likely to study any foreign language during high school than are whites—37 percent of black and 38 percent of Hispanic students do; 49 percent or nearly half of white students do. In science and mathematics, racial and ethnic differences are much less significant when it comes to course-taking in mathematics and science, yet conceivably the precise kinds of courses (for example, business math as opposed to algebra II) taken by different groups do vary. Variation in socioeconomic status of students is associated with mathematics and science enrollment. Those in the top quarter of socioeconomic status complete, on average, approximately 30 to 40 percent more years of science and math than do students in the lowest quarter. Students in the highest socioeconomic quartile finish 2.7 years of science and 3.1 years of math; those in the lowest quartile complete only 1.9 years of science and 2.3 years of math. Students in rural schools may be at a disadvantage, particularly with regard to foreign languages. Fully 50 percent of rural high school students are enrolled in schools not offering third-year Spanish; 56 percent are in schools without a third-year French course; and 83 percent are in schools without a third-year German course.

There are real people behind these numbers. The Committee heard testimony from talented high school students who, by sacrificing time, energy, and finances, were able to take advanced math and science courses during their high school careers, even when their high schools did not offer more advanced courses. Some enrolled in special college courses during the summer. Yet others reported that, once they had exhausted their schools' curricular offerings in these subject areas, they could go no further while in high school. Repeatedly, the Committee was told that many high schools do not or cannot offer advanced courses. Many schools which have offered such courses in the past are being forced to drop them from current course offerings.

Budgetary constraints, among other factors, appear to be dictating what our students can learn. Among the factors accounting for the lack in some schools of basic and advanced courses in math, science, and foreign languages are the following: these courses are not required; some school systems cannot afford to offer advanced courses to only a handful of students; and teachers certified to teach these specific subject areas are not easily found—good teachers who might attract more students to these subject areas may be even rarer.

The shortage of qualified teachers is particularly important. According to the National Science Board, serious teacher shortages exist in science and mathematics. While headcounts of unfilled teaching positions identify serious shortages limited to specific subject areas, e.g., physics, opinion surveys of university placement officials and state science supervisors conclude that serious shortages are found in most math and science fields. The executive director of the National Science Teachers Association has estimated that about 30 percent of all individuals currently teaching math and science in high schools are "either completely unqualified or severely underqualified to teach those subjects" and over 40 percent of the mathematics and science teaching force will retire by 1992.

The condition of our precollege mathematics, science and foreign language instruction has adverse consequences throughout the Nation's educational system. The level of instruction offered at the collegiate level appears to be suffering. For example, in 1983–84, 71 percent of all higher education institutions offered 1 or more remedial mathematics courses. Fully 25 percent of all college freshmen had to enroll in those remedial math courses.

Not surprisingly, limited access to courses has a direct effect on performance in those subject areas. The Committee's sense of urgency about responding to this situation arises, in part, from its consideration of the educational performance of students in countries that are our economic competitors. The recent international mathematics study, by the International Association for the Evaluation of Education Achievement, shows clearly how far behind our students have fallen academically. For students in the 8th grade or the equivalent, U.S. students answered correctly, on average, only 46.0 percent of the mathematics questions. That performance placed the U.S. next to last when compared to 13 other developed countries, well below the average for all 14 countries of 52.0, and dramatically below the average for Japanese students of 63.5 percent. The U.S. performance appears no better when one focuses on the performance of advanced mathematics students in the 12th grade. For example, in algebra, the U.S. advanced math students, on average, correctly answered 43.7 percent of the items, while the average for advanced math students in all participating developed countries was 49.0 percent and the average for advanced math students in Japan was 57.1 percent.

Observations on evaluating telecommunications technologies in education

From 1983 to 1986, the Minnesota State Department of Education conducted extensive research on eleven Technology Demonstration Sites that implemented two-way interactive television in that state. The results and findings of this evaluation confirm the effectiveness and importance of telecommunications in education. The Minnesota study found that:

1. ITV allows schools to offer a wider range of elective courses and permits students greater access to subject matter.

2. Teachers require training, preparation, and support to deal successfully with teaching on ITV. When these factors are present, teachers can adapt to and enjoy teaching on ITV. Seventy-five per-

cent of the teachers who taught on ITV would choose to do so again.

3. Students enjoy learning on ITV and are motivated by it.

4. No systematic, statistically significant difference in achievement was found between students taking courses traditionally and those in ITV sections. The medium does not appear to influence achievement.

5. ITV seems to be particularly appropriate for language and math instruction, for which it is heavily used.

Legislative response

The Star Schools Program Assistance Act will respond to the critical needs the Committee has identified—the need for all of our students to have access to basic and advanced courses in mathematics, science, and foreign languages, particularly those students underserved in the past, and the need for students to have access to courses of the highest quality. The legislation will do so by taking advantage of recent developments in telecommunications technology, and a cooperative spirit that now exists in this country committed to improving our educational system. Its authorization is $100 million over a 4-year period, with a $60 million limit on any annual appropriation. By permitting individual demonstration grants of up to $20 million over two years, the program will provide adequate levels of funding to insure the successful initiation of educational telecommunications networks.

The demonstration grants will provide direct benefits to students and teachers by providing access to the mathematics, science, and foreign language courses they currently lack. Teachers will be assisted in integrating the use of the available telecommunications equipment and networks into the regular curriculum. Furthermore, by providing teachers with training in their subject areas, the Star Schools Program will help to increase the number of high quality teachers in these subject areas. In addition, 25 percent of all funds appropriated in any single year must be used for the development of programming to be used on a telecommunications network.

The bill focuses assistance on disadvantaged students, and on areas with scarce resources and limited access to courses in these subject areas. Not less than 50 percent of the funds made available in any fiscal year shall benefit local educational agencies eligible to receive assistance under Chapter 1 of the Education Consolidation and Improvement Act.

Eligible partnerships may include local educational agencies with a significant number of schools eligible for Chapter 1 assistance. Partnerships applying for funding must provide assurances that they will make a significant portion of their facilities, equipment, technical assistance, and programming available to elementary and secondary schools in local educational agencies with a high percentage of students counted for purposes of allocating Chapter 1 funds. The Secretary is to give priority to applications from partnerships demonstrating that their course offerings will provide significant new resources to traditionally underserved populations and areas with scarce resources and limited access to math, science, and foreign language courses. Further, priority is given to ap-

plications from partnerships that will serve the broadest range of institutions, including particularly schools with significant numbers of Chapter 1 students.

By requiring that these demonstration grants be awarded only to partnerships, the Star Schools Program can promote cooperation between elementary and secondary schools, institutions of higher education, and industry, among others, in pursuit of quality education. The Secretary is to give priority to applications demonstrating that the telecommunications partnership has secured the cooperation of public and private educational institutions, State and local government, and industry in planning its network. In addition, the priority that the Secretary is to give to applications from partnerships intending to serve multi-state areas will also be beneficial to an overall pursuit of educational excellence, a pursuit not limited by State borders.

Finally, reports by the Office of Technology Assessment's reports evaluating the uses of these demonstration grants, and the study of the feasibility of an educational satellite, if requested, would guide a broader application of what is accomplished through the Star Schools Program.

Committee views

S. 778, the Star Schools Program Assistance Act, amends the Education for Economic Security Act by adding a new Title IX, which may be cited as the Star Schools Program Act. The Committee is placing the Star Schools Program in the Education for Economic Security Act, the Federal response to the current problems in improving mathematics, science, and foreign language instruction and achievement.

Section 902 of the title provides that the Star Schools Program is intended to encourage improvement in mathematics, science, and foreign language instruction through the provision of demonstration grants to telecommunications partnerships. These grants are to be used for the development, construction, and acquisition of telecommunications facilities and equipment, the development and acquisition of instructional programming, and for technical assistance.

The Committee notes that there are some school districts across the country which are currently engaged in "distance learning" through various kinds of telecommunications equipment. These illustrate on a small scale what the Committee hopes to accomplish on a larger scale, that is the sharing of educational resources with school districts which would otherwise have little or no access to them. In most instances, such projects have been tried on a small scale with a few schools or school districts linked together, using telecommunications facilities which only reach limited distances. It is the intent of the Committee to allow larger scale sharing of resources by providing funding needed to establish networks on a statewide or multi-state level, which in turn will allow the greatest numbers of students to receive and participate in the best quality courses and programs.

The Committee intends that Star Schools funds have as broad an impact as possible. Therefore, in view of the existence in many states of extensive telecommunications systems, including educa-

tional/public broadcast stations, Instructional Television Fixed Service (ITFS), microwave links, or other facilities, the Committee considers it important that project applicants provide assurances that a project would not duplicate existing available comparable production, transmission or receiving equipment, but rather would complement such equipment.

Section 903 authorizes $100 million, with an annual appropriation limit of $60 million, for fiscal years 1989 through 1992. When the Star Schools Program was acted upon by the Senate in S. 778 and H.R. 3, the authorization for the Star Schools Program commenced at the beginning of fiscal year 1988. The first year of the authorization is not included in S. 373 as reported by the Committee in order to provide additional time to consider what provisions should govern the first year of the program. However, it is contemplated by the Committee that an authorization shall be added for fiscal year 1988 before the Senate acts on the bill.

An individual demonstration grant cannot exceed $10 million in any single year, but may be renewed for a second year. No grantee may receive more than $20 million in total grants. In addition, not less than 25 percent of any annual appropriation shall be used to develop and acquire instructional programming. The Committee does not contemplate that each grantee must necessarily use 25 percent of its award for programming, but rather than 25 percent of the total appropriation be used for programming. Therefore, the Department of Education retains the flexibility to award grants solely for programming as well as those solely for equipment, as long as the 25-percent requirement is met overall. Each applicant should indicate to the Department in its application what portion of funds received it would use for programming so that the Department can enforce this requirement.

In addition, 50 percent of any annual appropriation for this program must be used to meet the costs of facilities, equipment, teacher training or retraining, programming or technical assistance for local educational agencies eligible to receive assistance under Chapter 1 of the Education Consolidation and Improvement Act. The Committee is particularly concerned about improving math/science instruction for traditionally underserved and disadvantaged populations. Therefore, the Committee intends by this language that 50 percent of the funds to grantees under this act be spent to improve resources available to Chapter 1 eligible LEA's and, within those LEA's, to further target the poorest schools and other underserved populations in the geographic area covered by the telecommunications network. By making telecommunications equipment, programming, and teacher training programs available to Chapter 1 eligible schools, in particular, we insure that students in attendance at those schools will benefit from improved instructional offerings in mathematics and science. The Committee believes that it is in the national interest to encourage students in attendance at Chapter 1 eligible schools to pursue careers in math and science. In order to meet that objective, we must improve instructional opportunities available to these students at the earliest elementary grades.

Section 904 provides that eligible telecommunications partnerships take one of two forms: a public agency or corporation estab-

lished for the purpose of developing and operating a telecommunications network to improve the education offered by educational institutions, teacher training centers, health institutions and industry (such an agency or corporation must contain representation of the interests of elementary and secondary schools eligible for Chapter 1 assistance); *or* a partnership among three or more of the following—a local educational agency with a significant number of elementary and secondary schools eligible for Chapter 1 assistance, a State educational agency, a higher education institution, a teacher training center, or a public agency, a private nonprofit organization, or public broadcasting entity with telecommunications network expertise. This language is not intended to be an exclusive list of entities which may be involved in a telecommunications network established under this act. Other entities may form partnerships or contractual relationships with those entities specified as eligible to form a partnership for the purpose of applying for a grant. Indeed, the Committee would encourage telecommunications partnerships to form such alliances with experienced entities to benefit from their expertise. And it is in keeping with other titles of the Act as well as this title's purposes that cooperative educational ventures between business and government be promoted.

An eligible telecommunications partnership must be organized on a statewide or a multi-state basis.

With respect to public broadcasting entities, the Committee notes that the federal government, over the last twenty years, has invested over $300 million in purchasing and maintaining the public broadcasting interconnection system. Public radio and television use these facilities to provide quality cultural, educational and news programming across the country, from rural farm communities and remote Alaskan villages to our largest urban centers.

Public broadcasting's record of efficient, effective use of federal funds and ability to leverage non-federal resources with those funds merits continuing support. The Committee believes that public broadcasting is eligible for participation in this program and that projects funded through the "Star Schools Program" should not duplicate but complement and build on this nationwide distribution system, where appropriate. Public radio and television's expertise in both the development and production of quality programming and their ability to distribute programs to the widest audience in the most cost-efficient manner should be utilized in meeting the objectives of this legislation.

Section 905 delineates the contents of applications for demonstration grant assistance. Such applications must describe the facilities, equipment, programming, and technical assistance to be supported by the grant. The funds can be used for the creation and acquisition of: statewide or multi-state educational telecommunications networks and technology resource centers; microwave, fiber optics cable and satellite transmission equipment; reception facilities; satellite time; production facilities; other telecommunications equipment able to serve wide geographic areas; development and acquisition of educational programming; and training for elementary and secondary teachers, particularly those in Chapter 1 schools, in the use of telecommunications facilities and equipment and in the development and acquisition of educational programming. The re-

quired applications must describe, in the case of an application for assistance for instructional programming, the types of programming which will be developed to enhance instruction and programming. They must show that the telecommunications partnership has sufficiently surveyed and analyzed its service area to insure that its service will increase the availability of mathematics, science, and foreign language courses. The required applications must also: describe intended teacher training policies for the use of telecommunications technology; assure that the financial interest of the U.S. in the acquired equipment and facilities will be protected for their useful life; assure that a significant portion of the facilities, equipment, and activities of the partnership will assist schools in local educational agencies with a high percentage of Chapter 1 children; describe how traditionally underserved students will benefit; and, provide additional assurances reasonably required by the Secretary.

The Committee stresses that the Star Schools Program should, to a great extent, assist telecommunications partnerships that provide interactive programming and courses of instruction. The hearings before the Committee clearly demonstrated that the technology is available to support a much wider use of interactive telecommunications activities than is currently found. The possibility of immediate interaction between student and teacher, no matter how far away that teacher might be, is critical for the advanced study in mathematics, science, and foreign languages where such courses are not otherwise available.

Section 905(c) of the bill specifies priorities that the Secretary must give in approving applications. The first priority is to applicants which demonstrate a concentration and quality of math, science, and foreign language resources which, by their distribution through the eligible telecommunications partnership, will offer significant new educational opportunities to network participants. Here and throughout this act, we have included language which places a priority in awarding grants to applications which serve the traditionally underserved, and areas with scarce resources and limited access to courses in mathematics, science, and foreign languages. Our intent is to focus use of funds under this act on these needy populations. While the bill specifically reserves 50 percent of the funds for elementary and secondary school districts eligible for Chapter 1 assistance, we have added this additional language to indicate that Star Schools should be further targeted within Chapter 1 eligible districts to serve the neediest children within those districts. The phrase "areas with scarce resources and limited access to courses in mathematics, science, and foreign languages" is also intended to recognize the needs of rural areas and rural school districts. The need for the Star Schools program is greatest in schools located in rural areas and rural school districts because many of these schools are currently unable to provide courses even of a minimum quality or variety in these subject areas.

Priority must also be given to applications showing that: the network was planned with the involvement of public and private educational institutions, State and local government, and industry; the partnership will serve the broadest range of institutions, including schools serving significant numbers of Chapter 1 students, pro-

grams offering instruction in non-school settings, higher education institutions, teacher training centers, research institutes, and private industry; a significant number of educational institutions have agreed to participate; the partnership will serve more than one State; and, the partnership will meet the needs of groups traditionally excluded from math and science careers due to discrimination, lack of opportunity, or economic disadvantage. Finally, the Secretary must insure that there is an equitable geographic distribution of grants. This provision is intended to insure that the limited funds made available under the program will be used to demonstrate how telecommunications can be used in a variety of settings around the country.

It is the intent of the Committee that applications which provide telecommunications programming for teacher training shall receive priority in awarding a grant. The Committee recognizes that instruction through telecommunications can be particularly effective in the area of teacher training. This is especially true of inservice training and retraining. This new mode of instruction would enable teachers who cannot leave school grounds during the day, or those who live or work far away from institutions of higher education, to take courses during their free periods, as well as before or after school. Such instruction would enable teachers to learn new subject areas or to expand their knowledge.

Furthermore, under this act, each application shall include plans for adequate teacher training for the use of the telecommunications facilities, equipment, and instruction. Sufficient teacher training will enable teachers to effectively integrate with other classrooms and instruction by other teachers into their own curriculum design. In this manner, telecommunications instruction can be woven into the class plan and school day, ensuring maximum use of this new mode of instruction.

Section 906 requires any funded partnership to provide the Secretary with a listing and description of all courses and materials that will be transmitted over satellite, the satellite over which the transmissions will take place, and the time of the transmissions. The Secretary is to compile this information and disseminate it to all State educational agencies. The Committee intends this listing to be sufficiently detailed to enable all educational institutions with the capacity to receive such satellite transmissions to be able to participate in the transmitted course or receive the transmitted materials. The purpose of this requirement is to enable states which are not formally a part of a network but which have satellite receiving facilities to benefit by receiving programming transmitted over a satellite.

Section 907 describes the evaluation of the use of all demonstration grants. Such evaluation is to be performed by the Office of Technology Assessment, upon request, beginning after September 30, 1987.

Section 908 provides that, upon request, the Office of Technology Assessment is to prepare a study of the costs associated with designing, building, and launching a satellite for education purposes. This study is also to consider the ability of users to repay the costs of this satellite. The Congress is to be notified if the Office of Tech-

nology Assessment concludes that the costs of such a satellite would be repaid by users within 10 years.

Section 909 defines the terms used in the Star School Program. The Committee stresses that the term "State" is given a broad definition, including not only the 50 states, the District of Columbia, and Puerto Rico, but also the trust territories.

Part B—Foreign language assistance

As with math and science education, the Committee recognizes the critical importance of foreign language and international studies to the economic, political, and military security of the United States. As the world becomes increasingly interdependent, it is absolutely essential that we instill in all Americans a "global mindset": the state of mind which recognizes that political events and economic trends half-way around the globe can influence our lives in very real ways. And in order to understand these events—to use them to our advantage—we simply must acquint ourselves with the languages cultures, and history of other nations.

No where is the need for a "global mindset" more essential than in the American business community. In 1986, twenty-five percent of our Gross National Product and thirty percent of American business profits were derived from trade, while forty percent of American farm produce was exported. At the same time, we have seen a gradual end to an era when American products, services and technologies were so superior that others had no choice but to come to us. In today's competitive world economy, the edge belongs to those who understand the subtle nuances of their target markets. Put simply, in a world of comparable goods and services, the language of trade is the language of the customer.

Unfortunately, because of a lingering linguistic and cultural ethnocentrism, we as a nation have failed to develop the language skills and cross-cultural awareness necessary to succeed in today's global village. In our schools and universities, severe language teacher shortages and inadequate funds have contributed to this alarming state of affairs. Less than five percent of American elementary school students study any foreign language and only fifteen percent of our high school students study a language for more than two yuears. At the postsecondary level, just twenty percent of American colleges and universities require a foreign language for admission, and only five percent of our college graduates are fluent in a second language. All told, less than one percent of American students study the languages, cultures and geography of nations with three-fourths of the world's population.

In light of the critical national need to expand international education at all levels, the Committee has established in S. 373 a modest federal grant program for model foreign language programs in elementary and secondary schools and a presidential award program for outstanding foreign language teachers. While foreign language instruction is currently a permissible activity under Title II of the Education for Economic Security Act, the Committee recognizes that this area has been given insufficient attention because the need to upgrade mathematics and science instruction has been so great. Therefore, because the Committee believes international education to be an equally important national priority, these sepa-

rate foreign language programs have been included in S. 373. The Committee notes that appropriated funds are currently being provided for foreign language instruction through the Secretary's Discretionary Fund in EESA, and recommends a continuation of the Department's commitment in this area independent of the new programs which have been included in S. 373.

The Foreign Language Assistance Act of 1987, now incorporated into S. 373 as Title VI, Part B of the Education for Economic Security Act, would make available $21 million for fiscal year 1989 for model foreign language instruction programs at the elementary and secondary level. This authorization level would increase by $1 million for each fiscal year through 1993. Under this part, the Secretary of Education would make grants to the states to support model and demonstration foreign language programs implemented by local educational agencies. The federal share of the cost of such program would be limited to 50 percent, except in hardship cases. The Committee also directs that provisions be made for the inclusion of children enrolled in private schools in programs funded under this part.

Funds would be distributed to each state on a per pupil basis except that no state would receive an amount less than one-half of one percent of the funds provided. One percent of available funds would be reserved for payments to Guam, American Samoa and the Virgin Islands, the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Mariana Islands.

The Committee has also established in S. 373 a program authorizing Presidential Awards for Teaching Excellence in Foreign Languages. Similar awards for outstanding instruction in mathematics and science are currently provided through Title IV of the Education for Economic Security Act. The Committee believes that these awards have helped to recognize the unique talents and afforts of our nation's math and science teachers, and in so doing, set standards of excellence for the profession and reward work well done. The Committee hopes the new program for language teachers will have a similar effect. The Committee also intends for this program to help address the alarming shortage of qualified language teachers throughout the nation by making language instruction a more visible and rewarding career option for today's colleage students.

In keeping with the Committee's belief that foreign language instruction is as important as math and science to the future of our nation, it has established a presidential award program for outstanding language teachers as an amendment to Title IV of EESA. One million dollars is authorized to carry out this program for fiscal year 1989 and "such sums as may be necessary" for each succeding fiscal year through 1993. Under this program, the Presideent is authorized to make awards for excellence in foreign language instruction to one outstanding elementary school teacher and one outstanding secondary school teacher from each state, the District of Columbia, and Puerto Rico. The Committee intends for the President to consult with the Secretary of Education, relevant officials of other federal agencies, and most important, representatives of foreign language teacher associations, in making such awards.

TITLE VII—BILINGUAL EDUCATION

Background and need for legislation

In 1984, the Bilingual Education Act was amended to include a new provision that permitted the Secretary of Education to allot 4 percent of the funds under the Act for special alternative instructional programs. This new category of funding recognized the need that exists in many schools and school districts to provide English language instruction for non- or limited-English speaking children without providing instruction in the student's native language.

Special alternative programs are programs that do not use the student's native language to teach that child English. Under current law, 75 percent of the Part A funds must be used for transitional bilingual education, a method that first relies on the student's native language and then increases the use of English over time, sometimes several years. Special alternative instructional programs include English as a Second Language (ESL), English for Speakers of Other Languages (ESOL), and structured immersion. These alternative methods use teachers trained in the mechanics of teaching a language, who can use cues in the student's native language. Generally, these classes are conducted solely in English.

Because of the many languages in our school systems and the national shortage of qualified teachers, bilingual instruction is not feasible for all schools.

The Committee requested the United States General Accounting Office to conduct a study of the concentrations of limited English proficient students in the States. The GAO completed the study in April, 1987 and found that, on average, among nine States that aggregate their data concerning the concentration of limited English proficient students by school building, 78 percent of their students were in high concentration areas, while 22 percent were in low concentration areas. In 17 States which aggregate this data by school districts, on average, 72 percent were in high concentration areas while 28 percent were in low concentration areas.

Also, a study of the country's 60 larger school districts done by the American Association of School Administrators (AASA) in April of 1987 shows that 54 school districts reported that 40 or more languages other than English were spoken as the first language of enrolled students. The average number of languages represented was 10. In single schools, the survey found four schools having between 30 and 60 languages other than English.

Seventy-eight percent of the schools had transitional bilingual programs and 22 percent had only ESL programs. There was an average of 3.5 teachers in each school district for bilingual education.

AASA, in its survey remarked, "this data reports that most of the reporting LEAs do not have sufficient ability to handle large numbers of LEP students of many diverse languages. The data states there are many languages in schools and there are not enough teachers to instruct in these languages. As seen by the data, no one single approach can fit all of the situations, therefore, it is necessary to do what's best for each district."

While many schools are unable to provide bilingual teachers, they are committed to helping their non-English proficient stu-

dents to become proficient in English and have sought to use ESL or structured immersion to provide instruction to these children.

Until 1984, federal bilingual education funds were not available for programs that did not use the student's native language. Therefore, ESL or structured immersion projects could not receive federal funding. When the 4 percent setaside for special alternatives was put in place, the response from school districts indicated that they were serious about serving non-English speaking children in the most efficient and effective way available. Many schools are simply unable to find teachers who know the student's native language. While this is generally not a problem with such languages as Spanish and French, there are school districts which cannot hire qualified teachers because of geographic location. The Committee feels that schools such as these, with significant non-English speaking student populations, should be able to receive federal aid. The 4 percent setaside has helped, but a great need still exists.

Explanation of legislation

In 1986, legislation was introduced that would have provided the Secretary of Education complete flexibility in making grants under the Bilingual Education Act. This bill, S. 2256, would have removed the 4 percent cap on the level of funds that could be expended on alternative programs as well as the statutory requirement that 75 percent of the Part A funds be spent on transitional bilingual education using native language instruction. The bill was not considered in the 99th Congress, although a hearing was held on the measure by the Subcommittee on Education, Arts, and Humanities on June 5, 1986.

On January 27, 1987, S. 383, a bill identical to S. 2256, was introduced. A compromise bill, S. 857, was introduced on March 26, 1987. This bill included a 25 percent setaside of all funds for alternative instructional programs. Through further negotiations, a provision was added instructing the Secretary to allocate up to 25 percent of Part A (program) funds for special alternative programs, keeping the 75 percent transitional bilingual education setaside in law. The bill held harmless current grantees through the entire duration of their grants, which in some cases would have included continuation through a fourth and fifth year. The final compromise also included a limit on the time a student could participate in a federal bilingual education program of three years, unless an individual evaluation showed it necessary for the student's mastery of English to continue one more year. A second year extension was possible only if accompanied by a second evaluation.

This final compromise was considered by the Labor and Human Resources Committee, which agreed to poll out S. 857 as amended by a committee amendment on May 1, 1987.

However, because under the standing rules of the Senate an objection may lie against a bill polled from a Committee rather than voted out by the physical presence of a majority, on May 15, 1987, the Committee reported to the Senate an original bill identical to S. 857 as amended. That bill became S. 1238.

No floor action was taken on S. 1238. Instead, the Committee incorporated the changes that would have been made to the Bilin-

gual Education Act by S. 1238 into the Robert T. Stafford Elementary and Secondary Reauthorization Act of 1987. Thus, the changes made to the Bilingual Education Act through Title VII of S. 373 are those proposed in S. 1238. In addition, S. 373 would abolish the National Advisory and Coordinating Council on Bilingual Education.

Committee views

In reauthorizing the Bilingual Education Act, the Committee underscores its support of bilingual education. This title continues current programs and practice while also allowing greater program flexibility to serve limited-English-proficient (LEP) children more effectively.

The best way to provide English language instruction to limited-English-proficient children is a subject that has been much debated by educators, policymakers, students, and parents. The discussion focuses on what type of language training is most effective to bring non-English-speaking children up to par with their English-speaking peers. Positions range from strong support of transitional bilingual education, an approach that employs instruction in the student's native language at the beginning and increases the use of English as time goes by, to strong support of methods which rely solely on English to teach the student.

Children learn at different speeds, thereby necessitating review of their appropriate placement in transitional bilingual education classes and in classes that rely more heavily on English. Students should be able to move ahead at their own speed and ability, to allow them to achieve fluency in English as quickly as possible as well as to maintain grade level and promotion standards.

Title VII of the Robert T. Stafford Elementary and Secondary Improvement Act of 1987 supports both teaching approaches—transitional bilingual education and special alternative methods, such as ESL, ESOL, or structured immersion.

This bill does not make a statement as to which instructional approach is better, nor do the Committee Members wish to debate the merits of each type of languagae instruction. Instead, the Committee believes that there is a need for greater flexibility at the school district level. The Committee recognizes the need of schools and school districts that have a multitude of languages represented in their student bodies, but are faced with a lack of bilingual teachers in any but the most common languages.

Section 7002(a) of the bill adds a new paragraph to the purposes of the Act, stating that, regardless of what type of teaching method is used under this program, the twin goals of the program shall be English proficiency and the development of academic achievement. This language is included to insure that quality is highlighted in all instructional programs for limited English proficient students as it should be in every education program, whether funded by the federal government or not. Both goals are equally important, and one should not preclude the other in the student's daily course.

Section 7002(b) of the bill provides that the Secreary of Education may reserve up to 25 percent of the funds appropriated under Part A to make gants for special alternative instructional pro-

grams. The 75 percent setaside of Part A funds for funding transitional bilingual education programs is not altered, as a recognition of the importance and success of those programs.

Under Part A, there are several other authorized programs, including developmental bilingual education, programs of academic excellence, family English literacy programs, and special programs for preschool, special education, or gifted and talented students. In order to accommodate these other programs under the 75 percent setaside for transitional and the 25 percent setaside for special alternatives, and to provide the Department of Education with maximum flexibility, the bill provides that these programs may be funded under either setaside.

Section 7021(d)(4)(A) makes a significant change by placing a limit on the amount of time a student may participate in a federal bilingual education program. While the Committee has no objection to any child continuing study in his or her native language, the Members feel that a fundamental goal of this federal program is proficiency in English. The Committee hopes that students will be able to accomplish this goal within three years, although some members would have preferred limiting participation to two years. However, this restriction applies only to classes funded under the federal Bilingual Education Act.

If, after three years of participation in a federal bilingual education program, a student has access to a separate state or local bilingual program, that student may enter the state or local program with no further restrictions. However, the Committee hopes that students are able to become proficient in English so that they can enroll as soon as possible in English classes, whether or not state or local programs are available.

The Committee recognizes that some students, for personal or cognitive reasons, may have a difficult time mastering English within three years, and that this may impede the students' ability to meet gate promotion or graduation standards. For this reason, the Committee included a provision to allow for individual review and evaluation of a student with any eye toward continuing their participation in a federal program for longer than three years.

After the third year of participation in a federal bilingual education program, a student who needs further English language instruction and has no recourse to a state or local program may be evaluated by the teacahers and school personnel familiar with the student's overall academic performance. The evaluation would be conducted by more than just the language teacher and could include such people as the building principal and/or other teachers familiar with the individual student's progress. The results of the evaluation must be made available to the student's parents.

If such an evaluation shows that the student's overall academic performance is lacking because of poor mastery of English, that student may remain in the federal program for an additional year. At the end of the fourth year, if the student is still performing poorly, another evaluation may be conducted. The results of that evaluation may indicate that the student needs yet a fifth year in the federal program. After five years, however, a student's participation in the federal bilingual education program would be termi-

nated. Again, if a state or local program exists, there is no prohibition against the student participating in that program.

For students who remain in a federal program for a fourth or fifth year, it is the Committee's intent that those classes strongly emphasize the mastery of English.

Section 7021(d)(4)(D) also allows local educational agencies, institutions of higher education and private nonprofit organizations to use funds under this act to intensify instruction for limited English proficient students. They may do so by expanding the educational calendar to include programs before and after school and during the summer months; by lowering the per pupil ratios, including the use of professional and volunteer aids; and by using new educational technologies.

The Committee believes these extra efforts where needed will make this program more effective and better help students to learn English and meet grade promotion and graduation standards.

Section 7021(c)(3) sets priorities for the funding of special alternative instructional programs. These priorities are set in recognition of the need of schools for flexibility in receiving an alternative grant. As in all the other grant programs under this Act, peer review is required, and grants must be of high quality to receive funds.

A grant shall receive priority for funding if it is on behalf of (A) a local educational agency having schools in which many languages are represented; (B) a local educational agency that does not have personnel qualified to provide bilingual instructional services; or (C) a local educational agency which has a small number of students in the schools of such agency and that because of isolation or regional location is unable to obtain a bilingual teacher.

It is anticipated by the Committee that these are the most common instances in which a school district would apply for an alternative instructional grant and the ones which should be given priority. Certainly, the main reasons are a lack of bilingual teachers and large numbers of languages represented in the school. However, the Committee does not intend to foreclose the funding of high quality applications that fall outside of these priorities. In those cases, the applications would be judged on their merit and be reviewed by peers, as are all other applications. It is consistent with the changes contained in this reauthorization to allow the funding of experimental or innovative special alternative instructional programs.

Title VII of S. 373 also eliminates the National Advisory Council on Bilingual Education. This action is not meant to be a specific statement on the work of this Council. Rather, it reflects the general view of the Committee that such Councils are not necessary for the proper implementation of this Act.

The Committee feels very strongly about peer review for this program. Nothing in Title VII of S. 373 changes the longstanding practice of selecting grantees based on the merit of the applications using peer review. The Committee does not expect the Department of Education to fund special alternative instructional programs if they are not deemed meritorious after peer review. Likewise, the Committee does not expect the Department of Education to fund

transitional bilingual education programs if they are not deemed meritorious after peer review.

The effective date of Title VII of S. 373 is upon enactment, so that these changes would be in place for academic year 1988-89. However, if these amendments become law after this time, it is not intended that they take effect retroactively.

TITLE VIII—DEMONSTRATION PROJECTS DESIGNED TO ADDRESS SCHOOL DROPOUT PROBLEMS AND TO STRENGTHEN BASIC SKILLS INSTRUCTION

Part A—Assistance to address school dropout problems

Background

Efforts to strengthen our productivity must call upon the talents of all our citizens. In this regard, the school dropout situation is a serious problem. An estimated annual dropout rate of 25 percent is a tremendous drain on our economy. It lays to waste our productive potential. Furthermore, it results in tremendous costs to society, the payment of which siphons funds away from investments in growth.

Each year's class of dropouts represents a monumental cost to this Nation in loss of productivity, ungenerated taxes, welfare and unemployment payments, and incarceration. The Committee believes that the failure to invest in programs which will keep students in school forces us to pay a price many times over in later years. The human cost of dropping out of school is staggering, but by an economic measure, the most serious cost associated with dropouts is the lost productivity of these individuals.

The Subcommittee on Education, Arts and Humanities reported out the School Dropout Demonstration Assistance Act, S. 320, earlier this year. Because the dropout situation must be addressed if we are to have a more productive workforce, the Committee included this legislation as part of S. 406, the Education for a Competitive America Act. The Committee has included the School Dropout Demonstration Assistance Act as part of the Robert T. Stafford Elementary and Secondary Education Improvement Act in view of the fact that this omnibus reauthorization seeks to include all authorizations in elementary and secondary education. In addition, the Committee strongly believes that efforts to prevent students from dropping out must begin in the early grades by solid instruction in basic skills. Unfortunately, many students leave school because of lack of confidence in their academic inability. Often, these students have been promoted from one grade to the next without having mastered the necessary skills, and the eventual result is failure, which is the most frequently cited reasons for dropping out of school. The Committee therefore believes that school dropout prevention programs and compensatory education are integrally intertwined and should be authorized under the same Act.

Explanation of legislation

This title authorizes a demonstration grant program to fund projects which address the school dropout problem. Under this title, $50 million is authorized for each of the fiscal years 1988 and 1989. After 1989, under Part B of title I of this Act, local education-

al agencies are permitted to use up to 50 percent of their grant for the purpose of school dropout prevention or reentry programs. This provision under the state grant program is described in further detail earlier in this text under the section relating to Title I.

The Committee intends that grants under this Part shall be awarded to successful projects which either seek to prevent students from dropping out or to encourage students who have left to reenter school and graduate. The Committee believes that we do not have adequate information on the extent of this problem or the best methods for addressing it. Therefore, we have authorized a demonstration program which provides maximum flexibility so that the most innovative and successful programs may be funded, identified, and evaluated.

Priority will be awarded to applications which seek to expand a successful model within a school district or to adapt a successful approach for implementation in another school district. In addition, priority grants shall be awarded to applications which reflect very high numbers or high percentages of school dropouts.

The Committee recognizes that States have different ways to define and count school dropouts. Thus, it is not possible to compare accurately the degree of need among states. In light of this situation, this legislation requires the Secretary to provide a standard national definition of a school dropout. This definition must be developed in consultation with appropriate groups, and must be published no later than six months after enactment of this legislation. Applicants for assistance under this title must document their school dropout problem according to the Secretary's standard definition.

The Committee believes that one of the most effective measures for preventing students from dropping out of school is to provide sound early intervention programs which identify at-risk students. Special consideration therefore, shall also be given to early intervention proposals. In addition, the Committee believes that proposals which include parental involvement should be given special consideration.

Grant awards

Grants are awarded under four categories of assistance: 45 percent is reserved for local educational agencies with school enrollments of more than 50,000; 15 percent is reserved for LEAs with enrollments of 20,000 to 50,000; 35 percent is reserved for LEAs with enrollments of less than 20,000; and 5 percent shall be reserved for community based organizations in consultation with local educational agencies. Within each of the first three categories, 25 percent is reserved for educational partnership programs. These partnerships shall include three partners: 1. a local educational agency, 2. a business or community-based organization, and 3. one or more of the following: a nonprofit private organization, an institution of higher education, a state educational agency, a state and local public agency, a private industry council, a museum, a library or educational television or broadcasting station, or a community-based organization.

Under the 35 percent reserved for local educational agencies with enrollments of less than 20,000, a consortia of LEAs may

apply for a grant. This consortia may include the State educational agency as well. For the purposes of eligibility in applying for assistance under this category, the largest LEA in the consortia must have an enrollment of less than 20,000. It does not require that the combined enrollments of all LEAs in the consortia total less than 20,000.

If insufficient numbers of applications are made in any category of assistance, the Secretary may award the remaining funds to local educational agencies in another category. Should the Secretary shift funds under this provision, assurances must be provided that this transfer is made to a category in which there is the greatest need for funds. In addition, the Secretary is directed to make information available to applicants and other parties upon request as to why categories were not fully funded.

The Committee believes that assistance under this Part shall serve to encourage state and local educational agencies to operate these programs in the absence of federal assistance. The federal share of the grant therefore declines over the two year period of the grant: 90 percent in the first year, and 70 percent in the second. The match may be paid from any other source, except that no more than 10 percent of the match may be from federal sources outside this Part.

While the Committee strongly encourages the Secretary to award grants to two year projects, it recognizes that some projects may seek assistance for one year only. Grants may be awarded to these projects as well. In awarding a grant, however, the Secretary shall make grants for the full period for which the applicant seeks assistance.

The Committee recognizes that the school dropout problem must be attacked on two fronts: both from the perspective of prevention, and from the need to encourage those who have left to reenter school and graduate. The Secretary is therefore required to provide at least 30 percent of the funds for prevention programs and at least 30 percent for programs which persuade dropouts to return to school and complete their education.

It is important that, to the extent practicable, projects should coordinate with other school dropout efforts in the community, with job placement programs, and other agencies which provide services for these students.

The Committee would like to call attention to two projects which address the dropout problem. They are Project Y.O.U. in Texas and the National Dropout Prevention Center at Clemson University in South Carolina. Project Y.O.U. (Youth Opportunities Unlimited) provides at-risk youth with a residential university-based education through an eight week summer program. This project is operated by the Coordinating Board of the Texas College and University System in coordination with the Texas Education Agency.

The National Center in South Carolina includes:

1. A clearinghouse for information on dropouts, which includes abstracts, bibliographic references and statistical data available through computer network and in print.

2. A directory of key contact persons in agencies, organizations, school systems and associations dealing with the dropout problem.

3. A consulting, intervention, and assistance network composed of experts throughout the country.

4. Conferences and programs for sharing information, discussing trends, identifying research needs and developing policy recommendations.

5. Sponsorships and support of coordinated research efforts and assistance in locating funds.

6. Regularly scheduled publications such as journals, summaries of research studies and reviews of programs.

7. An "800" referral telephone line for individuals and groups needing assistance or information about dropout issues.

The Committee is pleased to inform those involved in solving the dropout program of the effectiveness of the center.

The Committee also recognizes the effectiveness of such programs as 'Cities in Schools' in providing an environment which retains students at risk of dropping out by bringing a full range of community resources to the students.

This title makes provision for a national school dropout study. This provision directs that $500,000 be provided in the second year of the program to evaluate programs funded through this title. It further requires that such a study identify the most successful methods for addressing the dropout problem, that it provide more accurate documentation of the magnitude of this problem, and the factors associated with dropping out of school.

It is not the intent of the Committee to use education funds authorized under this Act for health services. Such services are funded through various federal, state and local health programs, and it is not the intent of the Committee either to duplicate or to supplement such funding through this Act.

Part B—Assistance to provide basic skills improvement

Background

The Committee is greatly concerned about the findings in the recent NAEP report on literacy that thirteen percent of all 17-year-olds have inadequate reading, writing and comprehension skills. One of the causes of this alarming statistic is that many school systems simply lack the resources to insure that each student performs adequately on reading and mathematics tests as he or she proceeds through secondary school. Most of these students routinely graduate. They enter a job market ill-prepared and sorely lacking in basic skills. Industry eventually picks up this cost. In fact, it is estimated that business and industry spend roughly $25 billion each year to train personnel, the bulk of which is devoted to basic skills instruction.

In light of the fact that the Chapter 1 program is able to serve only about 45 percent of eligible students, and that most Chapter 1 programs extend only as far as the fifth grade due to funding constraints, the Committee strongly believes that there is considerable need for an additional compensatory education program for secondary school students only.

This program takes two forms under S. 373. Under this part, the bill provides for a discretionary grant program of $200 million for fiscal year 1988 and 1989. The Robert T. Stafford Elementary and

Secondary Education Improvement Act continues this program in fiscal years 1990 through 1993 as a state grant program under Part B of Title I. This program is described in further detail earlier in the text under the section devoted to Title I.

The Committee believes that this critical investment will provide secondary school students with the basic skills necessary to enable them to perform their vocational duties competently and to adapt to changes in their work responsibilities resulting from changes in industries.

Explanation of legislation

This Part calls for a new authorization of $200 million for a discretionary grant program of compensatory education specifically targeted to Chapter 1 eligible students in secondary schools. While the Chapter 1 program has been successful in helping disadvantaged elementary school students achieve mastery of basic skills, funding for the program has not kept up with the increasing number of disadvantaged children needing assistance. Given the limited resources available to schools, remedial services have been targeted at disadvantaged students in grades 1 through 6. Relatively few Chapter 1 participants have been secondary school students.

This discretionary grant program would not divert any Chapter 1 funds from elementary schools. It would simply make additional funds available to meet the special needs of educationally disadvantaged secondary school students. Assistance would be targeted at local educational agencies with high concentrations of low income children.

Under this Part, LEAs may apply to the Secretary to carry out compensatory education programs at the secondary school level. Only students who are eligible for compensatory education services as provided under Title I of this Act shall be eligible to receive assistance under this Part. Eligible private school students in the LEA applying for a grant shall be considered eligible for compensatory services under these grants, consistent with provisions under Title I. The Secretary shall give priority in awarding grants to LEAs which have the greatest need for this award. This need is determined by the number of eligible children or the percentage of eligible children. LEAs in turn must demonstrate in their application that they will serve secondary schools which have the greatest need for these programs, as determined by numbers of children or by percentages.

In addition, the Secretary is directed in awarding grants to make every effort to insure that programs funded are representative of urban and rural regions, and that there is equitable geographic distribution in awarding the grants.

The Committee recognizes that the structure of compensatory education for secondary students must be very different in nature from the structure for elementary students. This is because of scheduling problems, but it is also due in large part to the student's self-esteem during very difficult years. Often, students suffer from being labeled remedial students, and this labelling could defeat the purpose of the program. The Secretary therefore shall give priority to projects which meet these problems through innovative programs. In addition, the Committee believes that addition-

al programs provided by community-based organizations can offer a student a good sense of self, and that, therefore, applications under this Part should seek to involve community-based organizations or to coordinate efforts with ongoing projects carried out by agencies and organizations apart from the LEA. The Committee is also of the mind that participating CBOs must be those of demonstrated effectiveness, i.e. those already in existence and with a proven track record of work and accomplishments.

There are many good ideas about how to improve basic skills of secondary school students. The Secondary School Basic Skills Improvement Act would support these innovative initiatives to meet the special needs of such students and to help them attain grade level proficiency in basic skills.

TITLE IX—EDUCATIONAL ASSESSMENT AND ACHIEVEMENT

Part A—National assessment of education progress

In the struggle to improve the quality of American education, it has become clear that we lack reliable and accurate data on the performance of our schools. Without this information, it is impossible to tell how much our school children are learning. Many education experts and public commentators have called for more and better information about the quality of our schools. To help get this information, this bill authorizes an expansion of the National Assessment of Educational Progress (NAEP). NAEP is a federally funded testing program that provides evidence about the academic performance of 9, 13, and 17 year old school children. For 20 years, NAEP has provided nationally and regionally representative data on how well our students are doing in math, reading, and writing.

The expansion of NAEP authorized by this Part will increase the number of subject areas that are assessed, increase the frequency of the testing, and make possible the collection of state representative data. More specifically, this Part will provide for the assessment of reading and mathematics every two years, writing and science every four years, and history, civics and geography every six years. In addition, this Part will allow states to gather the data necessary to compare themselves to other states and the nation as a whole. The Committee expects that a participating state may use this new data on the performance of its schools to decide whether and how they wish to improve the education they provide.

The collection of state representative data is strictly voluntary and at the option only of the participating states. States that choose to participate must contribute, either in-kind or in cash, some of the resources necessary to cover the costs of acquiring the data.

In order to insure an accurate interpretation of educational performance results, the Board must be able to gather demographic data sufficient to allow for an accurate appraisal. We do not, however, authorize the collection of extraneous informaton unrelated to academic performance.

Nor will this expansion of NAEP permit the collection of data that will invade the privacy of individual students or their families. To ensure this, the Statement of Purpose emphasizes its concern with respect to student privacy and cites the relevant provisions of

federal law that must be complied with to ensure conformance with its intention.

The Committee also intends that the public shall have access to questions and test materials whose confidentiality is no longer required to preserve the integrity or security of the test. The Committee recognizes that the public release of cognitive test items must be balanced against the cost developing additional items to replace those already released. Given the large-scale item development effort to be undertaken as part of the expansion of NAEP (both in terms of sample size and subject areas covered), the Committee believes that the release of a limited number of cognitive questions by the Secretary after each administration of the National Assessment would be appropriate. The Committee expects that the release of test items will be accompanied by the appropriate data on student performance on the particular items and that the data will be disaggregated by appropriate available individual characteristics. The Committee believes that the public will be more supportive of the results of the Assessment if they are able to examine those items and determine that the differences revealed in the results are in fact due to differences in students' achievement and skill levels.

The Committee believes that the expansion of NAEP means that the best qualified organization should administer the National Assessment and thus has removed the current-law limitation that required the Department to use a private, non-profit educational organization as the NAEP contractor.

While making needed innovations in the National Assessment, the Committee intends to assure—to the maximum, extent possible—the continuity of trend data so the results of each new assessment can be compared with prior ones.

In order to allow for public comment and Congressional input into plans for the expanded NAEP, the Secretary is instructed to publish a report, within six months of the date of enactment, describing plans for the collection of State representative data and for the expansion of subjects to be tested. The report should also include methods by which the results of NAEP may be reported so that the results are more readily available and more easily understood by educators, policymakers, and the general public, and methods by which items will be reviewed to identify and exclude those items that might reflect racial, cultural, gender, or regional bias. The report is to be submitted to Congress for review, and the appropriate authorizing Committee of each House of Congress may request that the Secretary make modifications in the plan.

The expansion of the National Assessment is accompanied by a change in the governance mechanism for the program. At present, the NAEP is directed by an Assessment Policy Committee (APC). This body is appointed by the contractor who administers the testing program for the Department of Education.

To enhance the stature and independence of this body, the Assessment Policy Committee is replaced by a National Assessment Governing Board (NAGB). The NAGB will be composed of the current APC and additional individuals necessary to meet the new statutory requirements for membership. Current APC members

will serve on the NAGB until their terms expire. All new members of the NAGB will serve staggered three-year terms.

The NAGB is designed to be self-perpetuating. Whenever a vacancy occurs, the NAGB will select three individuals who are qualified to fill the particular opening. In selecting the three individuals, the Board should consult with organizations broadly representative of the category of membership for which the vacancy occurs. These names will be recommended to the Secretary of Education who shall select one individual to fill the vacancy. The Secretary and Board should take steps to assure that the Board is balanced in terms of race, ethnicity, and gender.

The initial membership of the Board will include current members of the Assessment Policy Committee and several additional members to be appointed by the Secretary. The Committee indents that the Secretary, in seeking nominees for the initial membership of the Board, should solicit nominations from a wide-range of groups and interested individuals. The call for nominees should be publicized widely, including, but not limited to, publication in the Federal Register.

The NAGB will design and supervise the conduct of the National Assessment and advise the Secretary on the selection of the organization to carry out NAEP. The Board is expected to be independent of and to supervise the organization(s) carrying out the assessment. The Board is also intended to be independent of the Secretary of Education.

To ensure that the new National Assessment Governing Board is able to operate in an independent manner, the Department of Education will detail a sufficient number of staff members on a full-time open-ended basis to support the work of the Board and its members. The Board may identify, from employees of the Department, those individuals it seeks to have detailed to work as its staff. Although the staff are employees of the Department of Education, their responsibility will be to fully and independently serve the National Assessment Governing Board. The staff provided to the NAGB are to represent the Board's interest to the Secretary of Education and to oversee the work of the contractor who administers the National Assessment. The Board shall also establish general guidelines to be followed by the organization carrying out the National Assessment in analyzing results, and in publishing and disseminating the results, in cooperation with the Department.

Policy direction for the National Assessment is to be provided by the NAGB. The NAGB shall have authority to approve the cognitive items to be included in any National Assessment. The Board must ensure that all items selected for use in the assessment are free from racial, sex, cultural, regional, or class bias.

The bill also authorizes the National Assessment to carry out a study of adult literacy. Illiteracy in America is a serious problem. We do not know, however, with any certainty how many people are illiterate. Studies have estimated illiteracy rates ranging from one-half of one percent to almost fifty percent of the population. Much of this variation may be atributed to the lack of a standard definition of literacy. This study is intended to provide policymakers, educators, the media, and the public information about the nature and extent of illiteracy in America. The study has been assigned to

the National Assessment becaue the Committee was very impressed by the recent NAEP report on illiteracy among young Americans, "Literacy: Profiles of America's Young Adults."

Before undertaking this study, the National Assessment is required to develop a uniform definition (or definitions) of adult literacy. This definition should be developed after consultation with appropriate state and local interest groups and educators.

Based on this definition, the National Assessment will conduct an assessment of literacy of adults. In carrying out the study, the National Assessment Governing Board should consult with literacy experts, professional organizations concerned with literacy, teachers, state and local educational agencies, publishers of instructional material, and others with expertise in the area of literacy.

The Committee intends that periodic assessments of adult literacy be conducted to measure our national progress. These assessments should be representative of the nation's population (including persons in the penal system and military service); identify major geographic concentrations of functional illiteracy; permit comparisons by age, sex, ethnic group, educational level, and employment; and identify appropriate steps for reducing illiteracy.

$1.5 million of funds authorized for the National Assessment of Educational Progress are to be used for these literacy-related activities.

Part B—Fund for the Improvement and Reform of Schools and Teaching

The ongoing efforts to improve American education have involved, and will continue to involve, the federal government, state and local governments, the philanthropic community, non-profit organizations, and the private sector. Defining what the federal government can and should do to encourage educational reform is essential.

One key component of the federal role is a willingness to sponsor promising, innovative and creative activities by providing the risk-capital necessary for projects that would not be undertaken otherwise. Such activities might involve new approaches to encouraging improvement in education, especially approaches that are designed and implemented in local schools.

To stimulate educational improvement, the federal government needs an organizational entity that sponsors innovative projects at the elementary and secondary levels. The Fund for the Improvement of Postsecondary Education (FIPSE) performs that function at the postsecondary level and this highly regarded and successful program is a focal point for efforts to improve postsecondary education. In this bill, the Committee authorizes a companion fund for elementary and secondary education. The Fund for the Improvement and Reform of Schools and Teaching (FIRST) will make grants to local schools, school districts, non-profit organizations, state educational agencies, and higher education institutions to improve the quality of America's elementary and secondary schools.

FIRST will make money available to improve educational opportunities for and the performance of school children and teachers. The focus of FIRST will be on school-initiated and school-based

projects. Educational success is most likely in schools where parents, teachers, and students agree on the goals, methods and content of schooling. These conditions can be found in suburban schools or in the inner city. But they are found in the schools themselves and not in an education bureaucracy. In making awards, FIRST will consider the extent to which the proposed project is likely to improve teaching and learning at the local school level. Such an emphasis will encourage school administrators and teachers to launch efforts designed to meet school-level needs, in the same way that FIPSE is now concerned with college- and university-level needs.

Priority is given to applicants that plan to use FIRST grants to develop or implement systems for providing incentives to local educational agencies or schools to make measurable progress toward specified goals of improved educational performance, particularly for at-risk students. Such goals may include reduced drop-out rates, increased attendance or graduation rates, increased student achievement, increased numbers of students taking more rigorous courses of instruction, reduced rates of incidents of juvenile delinquency or vandalism, or incremental movement toward the attainment of other goals that the LEA or school believes are concrete indicia of school improvement.

The Committee was impressed by several incentive schemes described by witnesses at hearings this fall. Such incentive programs are in operation in Cambridge, Massachusetts, and Rochester, New York, and at the state level, in New Jersey and Massachusetts. These incentives include financial rewards for successful attainment of one or more goals; regulatory waivers or other forms of flexibility to enable LEAs or schools to reach goals of improvement through nontraditional means, or as a reward for successfully meeting goals; grants to schools for innovative projects such as leadership training teachers, administrators, and board members, and for parental involvement.

Specific projects funded by FIRST should have as their purpose: Helping disadvantaged children meet higher educational standards; strengthening school leadership and teaching; promoting closer ties between school teachers, administrators, families and the local community; providing opportunities for teacher enrichment and other means to improve the professional status of teachers; encouraging projects that reallocate existing resources (both human and financial) better to serve children by refocusing priorities; allowing local schools to establish closer ties with a higher education institution to increase educational achievement; increasing the number and quality of minority teachers; providing entry-year assistance to new teachers and administrators; or improving the teacher certification process, especially in schools, school districts, or states facing serious shortages.

In reviewing the proposals, it is the Committee's intent that priority be given to projects that will benefit students or schools with below average academic performance; and develop or implement projects that offer incentives to encourage schools, administrators, teachers, or students to make measurable progress toward specific goals of improved educational performance.

Seventy-five percent of the money appropriated for FIRST in any fiscal year will be distributed to any eligible applicant whose proposal merits funding. Grants may go to state and local education agencies, non-profit organizations, colleges and universities, individual schools, and consortia of these institutions.

The remaining twenty-five percent of the appropriation made in any fiscal year will be reserved for grants to individual schools or consortia of schools. These grants are intended to promote systemic change in local schools by reallocating human and financial resources in ways that will enhance learning.

Grants may range in size from $5,000 to $125,000 per year. Applications for school-level projects must be initiated by, and responsibility for each project must clearly and unambiguously be vested in, a full-time teacher or school building administrator. However, the appropriate school district (LEA) administrator must review any proposal before it is submitted and may offer comments to the Fund. The school district must agree to act as the fiscal agent in administering the school's grant, but funds must be expended at the school-building level. Grant money must supplement, not supplant, other resources available to the school. These grants should focus on the teaching/learning process and not involve the acquisition of capital equipment as a primary purpose.

To ensure that the grants made by FIRST have lasting impact, FIRST projects should be linked to local and state-supported projects and priorities. All applications shall be forwarded to the state educational agency for review and comment, if the state educational agency requests the opportunity for review.

FIRST will be governed by a Board of Directors. Board members must be persons with extensive background in elementary and secondary education and must represent a broad range of viewpoints and experience. In addition, parents and the general public must also be represented. The FIRST Board will be chosen by the Secretary to serve overlapping three-year terms. In the future, when a position on the Board becomes vacant, the Board will nominate three individuals for Secretarial consideration. The Secretary will choose one individual to fill the vacancy. The Secretary of Education shall be an ex officio member of the Board. Members may serve no more than two consecutive terms. The Board shall elect a chairman and vice-chairman from among its membership.

FIRST will have a Director who will advise the Secretary and the Board about developments that merit the Board's attention, identify promising initiatives, design grant competitions, and recommend projects for funding.

In reviewing proposals, the Fund shall consider the need for the proposed project, and its plan of operation, educational value, budget and cost effectiveness, plan for evaluation, proposed impact, expected outcomes, potential transferability to other settings, and other factors as appropriate with respect to the goals of the Fund. The Fund shall also consider, to the extent practicable, the geographic distribution of the projects selected for funding. The Fund shall take appropriate steps to ensure that new applicants are encouraged in any grant competition sponsored by FIRST.

The Secretary may appoint for terms not to exceed three years, without regard to the provisions of the United States Code govern-

ing appointments in the competitive service, up to five technical employees.

FIRST and the Fund for the Improvement of Postsecondary Education (FIPSE) will be organizationally separate entities but they will have similar functions. As a result, the Committee expects FIRST and FIPSE to coordinate their activities. The bill provides that the FIRST and FIPSE boards meet jointly at least once a year. In addition, the bill requires that the Directors of both funds meet on a regular basis to discuss the work of their respective funds.

Part C—Optional Tests for Academic Excellence

S. 373 also authorizes $2 million for the Secretary of Education to select tests or develop a test of academic excellence. Legislation of this nature was first introduced in 1967 by Senators Claiborne Pell of Rhode Island and John Sherman Cooper of Kentucky.

Whether twenty years ago or today, the Committee is aware that American students do not fare well when compared with the achievements of students from Japan, West Germany, the Soviet Union and France in areas such as mathematics, science and foreign languages. Only one-third of our high schools require more than a year of math, and less than one-half of our high school graduates have had even one year of a foreign language.

The idea of national testing was renewed this year with the issuance of "The Nation's Report Card," a report which came out of a study group chaired by former Tennessee Governor Lamar Alexander. It was envisioned that such testing would provide a vastly improved method of assessing student progress, and would provide important state-by-state information on student strengths and weaknesses.

While S. 373 does contain language with respect to a national test, the Committee stresses that in no way is such a test to be mandatory. It is to be a voluntary test. No student could be required to take it, and no local education agency could be required to give it.

Further, while the tests are to be a test of the acquired skills and knowledge appropriate to completion of a secondary school education, the Committee emphasizes that in no way should that be construed as mandating a national curriculum.

If a sufficient number of local education agencies decide to give tests and if a sufficient number of students exercise the option to take it, it could give an indication of how a school and its students compare with schools and students in other parts of the nation. It could be very helpful in pointing out the strengths and weaknesses in the educational attainment of students on a school-by-school basis.

The Committee notes that it is possible that the Secretary might select and designate existing tests for use in this program. While this is permissible, the Committee believes that several tests should be selected only if the results of those tests can be compared. If one test were to be administered at one school and another at a different school, the results must permit a comparison between the two schools.

Assuming that test scores can be equated, the Committee believes that several commercially available nationally-normed tests with recent copyrights might be selected to provide comprehensive tests of acquired skills and knowledge appropriate to identify outstanding students in the eleventh grade of public and private secondary schools. Such tests might include the following:

The Iowa Tests of Educational Development, Grades 9–12.

The Riverside Publishing Company's Tests of Achievement and Proficiency, Grades 9–12.

The Metropolitan Achievement Test, Advance II Level, Grades 9–12.

Standard Test of Academic Skills, Level II, Grades 9–12.

California Achievement Test, Grades 8–12.

Comprehensive Test of Basic Skills, Grades 8–12.

The Committee, however, mentions these tests only as examples and does not intend their citation to be construed as an endorsement of selection. Also, the Committee re-emphasizes its intent that the selection of existing commercially available tests can be done only if the test scores among such tests can be equated.

With respect to the certificate to be awarded to students who have successfully completed the test, the Committee is of the mind that such a certificate could help identify talented students who otherwise might not be recognized. It is something the student might well be able to use in getting a job, or something to which the student could refer in seeking admission to an apprentice program or to institution of higher education.

The test would be given during the student's junior year in high school. In this way, the results of the test would be available for a student's use in the senior year. The Committee believes that this would maximize use of the test results in helping students decide on a senior year course of study, and make postsecondary education and career plans as well.

While S. 373 mandates the selection of tests or the development of a test, it is the clear intent of the Committee that the test not be given in the schools until the Secretary has reported to the Congress on the estimated cost of administering, scoring and analyzing the test results.

TITLE X—EDUCATION FOR NATIVE HAWAIIANS

Purpose

Title X authorizes supplemental programs to meet the unique educational needs of Native Hawaiians. The Secretary of Education is authorized to make grants to the University of Hawaii, the Hawaii State Department of Education, the Kamehameha Schools, and Native Hawaiian organizations for the implementation of model educational curricula, family-based preschool programs, a demonstration program designed to encourage Native Hawaiian students to seek higher education, programs for gifted and talented children, and programs for students needing special education.

Background and need

Title X is the culmination of more than ten years of study and efforts designed to help Native Hawaiian children achieve educational parity with other ethnic groups. First defined as "Native Americans," along with American Indians and Alaska Natives in the Native American Programs Act of 1974, Native Hawaiians rank at the bottom of all the social indices including educational achievement. A "Needs Assessment Survey" of the Native Hawaiian community undertaken in 1975 by Alu Like, a private, nonprofit corporation funded by the Administrtion for Native Americans, revealed the high priority which Native Hawaiian parents place on education for their children, and their frustration with an educational system that has failed to motivate Native Hawaiian children and address their unique cultural needs.

A subsequent study, entitled the "Native Hawaiian Educational Assessment Project" (NHEAP) was conducted jointly by the U.S. Department of Education and the Kamehameha Schools/Bishop Estate. The NHEAP Report, published in 1983, validated certain assumptions regarding Native Hawaiian's educational needs, namely that their low achievement is related to their cultural situation.

The Native Hawaiian population is a relatively youthful population with nearly one-half of all Native Hawaiian's being under the age of 25. (The average age of the United States population as a whole is now 31.) Although Native Hawaiians constitute only 19 percent of Hawaii's population, over 20 percent of all the students in Hawaii's public schools are of Native Hawaiian ancestry. They are the second largest ethnic group in Hawaii's public schools. Even as early as the preschool years, however, Native Hawaiian children are at an educational disadvantage: over 67 percent of entering kindergarten score below the national average on standardized achievement tests. An estimated 37 percent of Native Hawaiian elementary school students score below the norm, compared with a national average of 23 percent. Moreover, Native Hawaiian children make up 35 percent of students in Hawaii with learning disabilities, and about 75 percent of Native Hawaiian students entering kindergarten at the Kamehameha Schools have hearing impairments serious enough to interfere with learning. Native Hawaiian high school students have a high dropout rate and only seven percent of the students enrolled at the University of Hawaii are Native Hawaiians.

Title X would address these specific educational problems of Native Hawaiian children through a variety of programs designed to improve early childhood and preschool education, the development of curricula and teacher training programs which would address the unique cultural needs of Native Hawaiian children, incentives for high school students to stay in school and seek higher education, and programs for children who suffer from mental or physical handicaps and serious learning disabilities.

Legislative history

In the 95th Congress, Senators Inouye and Matsunaga introduced S. 857, a bill to include Native Hawaiians in the Indian Education

Act. Public hearings on the bill were held in Hawaii in February 1978 by the Senate Select Committee on Indian Affairs.

In the 96th Congress, Senators Inouye, Matsunaga and Melcher introduced S. 916, a bill which established a separate Native Hawaiian Education Act similar to Title IV of the Indian Education Act, to fund public school programs and pilot projects to serve Native Hawaiians. S. 916 passed the Senate as part of the Education Amendments of 1980; however, in conference with the House, the Senate-passed provisions were deleted. Instead, conferees agreed to create an Advisory Council on Hawaiian Education. Funds for the new Council were rescinded by the 1981 Omnibus Budget Reconciliation Act. Subsequently, the Senate Appropriations Committee instructed the U.S. Department of Education to submit a comprehensive report on Native Hawaiian education, the costs of which were underwritten by Kamehameha Schools/Bishop Estate.

In the 98th Congress, the Native Hawaiian Educational Assessment Project, the product of the Department of Education/Kamehameha Schools study, was submitted to Congress. An oversight hearing on the report was held in March 1984, by the Senate Select Committee on Indian Affairs.

In the 99th Congress, Senators Inouye, Matsunaga and Melcher introduced S. 830, a bill to amend Title IV of the Indian Education Act to include Native Hawaiians. A public hearing was held on the measure in June 1986 by the Senate Select Committee on Indian Affairs, but no further action was taken prior to the adjournment of Congress.

S. 360 was introduced by Senators Inouye and Matsunaga on January 21, 1987. The Senate Select Committee on Indian Affairs held a public hearing on the measure in Hawaii on March 6, 1987, and the bill passed the Senate on April 22, 1987. A similar measure, H.R. 1081, introduced by Representatives Akaka, Saiki and Kildee, was considered by the House Committee on Education and Labor and was included in H.R. 5, "The School Improvement Act of 1987," which passed the House on May 21, 1987.

Authorization

$10 million is authorized for programs under Title X in Fiscal Year 1988.

Separability of provisions

It is the intention of the Committee that if any provision of S. 373 or application thereof to any person or circumstance is held invalid, the remainder of the legislation and the application of such provision to other persons or circumstances shall not be affected thereby.

IV. Regulatory Impact Statement

The Committee has determined that there will be minimal increases in the regulatory burden imposed by this bill.

V. Cost Estimate

U.S. Congress,
Congressional Budget Office,
Washington, DC, November 9, 1987.

Hon. Edward M. Kennedy,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for S. 373, the Robert T. Stafford Elementary and Secondary Education Improvement Act of 1987, as ordered reported by the Senate Committee on Labor and Human Resources on October 14, 1987.

If you wish further details, we will be pleased to provide them.

With best wishes,

Sincerely,

For Edward M. Gramlich,
Acting Director.

Congressional Budget Office Cost Estimate

1. Bill No.: S. 373

2. Bill title: The Robert T. Stafford Elementary and Secondary Education Improvement Act of 1987.

3. Bill status: As ordered reported from the Senate Labor and Human Resources Committee, October 14, 1987.

4. Bill purpose: The primary purpose of this bill is to amend and extend from 1989 through 1993 the authorization for appropriations for the major federal elementary and secondary education grant programs. Most of these programs are currently authorized through 1987 under the Elementary and Secondary Education Act of 1965, the Education Consolidation and Improvement Act of 1981, P.L. 81-815 and P.L. 81-874 relating to federal impact aid payments, the Education for Economic Security Act, and the Adult Education Act. S. 373 also establishes several new grant programs. This bill is subject to subsequent appropriations action.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1988	1989	1990	1991	1992	1993
Title I: Basic Programs						
Estimated authorization level:						
Basic grants to local educational agencies		11,250	11,850	12,525	13,225	13,950
Capital expenses		50	53	56	59	62
Secondary schools basic skills improvement			400	450	500	550
Basic grants to State agencies for migratory children		665	705	750	800	855
Basic grants to State agencies for handicapped children		405	430	460	490	520
Basic grants to State agencies for neglected and delinquent children		65	70	74	79	84
Basic grants to the Territories		124	131	138	146	154
State administration		125	132	139	147	156
State education improvement		63	132	139	147	156
Evaluation and technical assistance		8	8	9	9	10

[By fiscal years, in millions of dollars]

	1988	1989	1990	1991	1992	1993
National studies		4	4	4	5	5
GAO studies	(1)	(1)				
Elementary and secondary education improvement (Chapter 2)		580	610	640	672	706
Subtotal estimated authorization level	(1)	13,338	14,525	15,385	16,279	17,207
Subtotal estimated outlays	(1)	693	11,615	14,353	15,310	16,202
Title II: Special Programs for Innovation in Education						
Authorization level:						
Even start program		25	27	28	29	31
Effective schools		25	27	28	29	31
Women's educational equity		−15	6	6	6	7
Gifted and talented		15	16	17	17	18
Family-school partnership		10	11	11	13	14
Ellender fellowships		4	7	8	9	10
Territorial assistance			8	8	9	10
Parental Choice Open Enrollment Demonstration Program in public schools		15	16	17	18	19
Rural education opportunities		10	11	11	12	13
Secretary's fund for innovation in education		20	21	22	23	25
Subtotal authorization level		109	147	155	165	176
Subtotal estimated outlays		9	81	137	153	163
Title III: Magnet Schools						
Authorization level:						
Grants to overcome racial isolation		115	121	127	133	140
Grants for educational improvements		35	37	39	41	43
Subtotal authorization level		150	158	166	174	183
Subtotal estimated outlays		12	109	156	164	172
Title IV: Impact Aid						
Authorization level:						
Maintenance and operations		800	840	880	925	970
Construction		25	26	27	28	29
Subtotal authorization level		825	866	907	953	999
Subtotal estimated outlays		672	846	899	944	990
Title V: Adult and Vocational Education						
Authorization level:						
Workplace literacy	30	32	33	35	37	39
English literacy		200	210	225	235	245
Adult education	25	26	28	29	31	32
Research, development, and evaluation for adult education		2	2	2	2	2
Subtotal authorization level	55	260	273	291	305	318
Subtotal estimated outlays	1	48	219	271	288	302
Title VI: Education for Economic Security						
Estimated authorization level:						
Mathematics and science education		330	345	365	385	405
Partnership in education	−30	21	22	24	25	26
Presidential awards for foreign language		1				
Star Schools Program			60	40		
Evaluation of Star Schools Program			(1)	(1)		
Foreign language assistance		21	22	23	24	25
Subtotal estimated authorization level	−30	373	449	452	434	456
Subtotal estimated outlays	−3	12	261	428	450	441

[By fiscal years, in millions of dollars]

	1988	1989	1990	1991	1992	1993
Title VII: Bilingual Education						
Bilingual education		168	177	185	195	200
State data collection, evaluation, and research		8	8	9	9	10
Subtotal estimated authorization level		176	185	194	204	210
Subtotal estimated outlays		6	138	183	193	202
Title VIII: Assistance to Address School Dropout Problems						
School dropout demonstration assistance	50	50				
Basic skills demonstration assistance	200	200				
Subtotal authorization level	250	250				
Subtotal estimated outlays	20	180	230	70		
Title IX: National Assessment of Educational Progress						
National assessment of educational progress		6	12	12	20	20
Funds for the improvement and reform of schools and teaching		18	19	20	21	22
Optional tests for academic excellence		2	2	2		
Subtotal estimated authorization level		26	33	34	41	42
Subtotal estimated outlays		21	31	33	39	41
Title X: Education for Native Hawaiians						
Estimated authorization level:						
Model curriculum implementation project	3	3	3	4	4	4
Family-based education centers	2	3	3	3	3	3
Higher Education Demonstration Program	1	1	1	1	2	2
Fellowship assistance demonstration project	1	1	1	1	1	1
Gifted and Talented Demonstration Program	1	1	1	1	1	1
Special Education Program	2	2	2	2	2	2
Subtotal estimated authorization level	10	10	11	12	12	13
Subtotal estimated outlays	4	9	11	11	12	13
Title XI: General Provisions						
Subtotal estimated authorization level						
Subtotal estimated outlays						
Bill total:						
Estimated authorization level	285	15,517	16,647	17,595	18,567	19,605
Estimated outlays	23	1,662	13,542	16,542	17,553	18,526

[1] Less than $500,000.

The cost of this bill falls in Function 500.

Basis of Estimate.—The cost estimate for S. 373, the Elementary and Secondary Education Improvement Act of 1987, reflects both the new and extended authorization levels for most federal elementary and secondary education programs from 1989 through 1993. Most programs currently are authorized through 1987 under several different education laws. A separate law, the General Education Provisions Act, provides for an automatic one-year extension of 1987 authorizations for existing education programs if reauthorization has not occurred in time for the annual budget appropriations process.

Except where specific new or revised 1988 authorizations are specified in S. 373, the authorization levels in this bill are for 1989 through 1993. For those programs where specific authorization

levels have been stated in the bill, the estimate reflects the stated levels. For those programs authorized at such sums as may be necessary, CBO has estimated the authorization level. It is assumed that the authorization levels are fully funded. Estimated total outlays for the existing programs reflect current spending patterns. Most of the grant programs are appropriated on a forward-funded basis. The 1989 funds are to be used for the 1989–1990 school year, thus estimated outlays are low the first year. For new programs, estimated total outlays reflect spending patterns of similar grant programs. The specific assumptions are stated below.

TITLE I

Title I includes the basic formula grants to both local educational agencies (LEAs) and the state education agencies (SEAs) referred to as Chapter 1 grants. This title also authorizes the Elementary and Secondary Improvement grants referred to as Chapter 2.

The Chapter 1 basic grants to LEAs are authorized at such sums as may be necessary. Based on the stated formula contained in the bill, CBO estimates that the 1989 cost would be $11.3 billion. Under full funding, total LEA grants would be based on 40 percent of each state's per pupil expenditure, held to a specified range around the national average, multiplied by the number of children who are from low income families as defined by the 1980 Census plus the number of neglected, delinquent, and foster children not included in the Census counts. There is also a specified state minimum payment level.

There are almost 8 million children age 5 to 17 years old who are either children in poor families according to the 1980 Census criteria for poverty or who meet the other criteria. The total Census count of the number of children is not expected to change until two to three years after the 1990 Census; thus the numbers are held constant over the projection period. The national weighted average per pupil expenditure under the formula is estimated to be $1,410 for 1989. This figure has been adjusted for projected inflation over the remaining four year period to determine the outyear grant levels. The SEA grants for migratory, handicapped, delinquent, and neglected children are determined by multiplying the number of children by 40 percent of the State's per pupil expenditure similar to LEA grants. The total estimated authorization level for the three SEA grants for 1989 is approximately $1.1 billion. Based on the latest estimate of children from the Department of Education, the full-time equivalent number of migrant children in states, which under S. 373 is expanded to include children age 3 to 21 years old, is estimated to be almost 470,000. The number of children residing in state operated facilities for the handicapped is estimated to be about 255,000, and the number of delinquent and neglected children in those facilities is estimated to be over 44,000. These populations are not expected to change significantly over the five year period.

The estimated authorization levels for the grants for territories, state administrative expenses, and state education improvement are based on the specified percentages of LEA and SEA grant levels stated in the bill.

The authorization levels for Chapter 2, evaluation and technical assistance, and national studies are all stated in S. 373. The authorization levels for the Secondary Schools Basic Skills Improvement program are those stated in S. 373 for 1990 through 1993. The authorization for capital expenses is stated for 1989, the outyears are authorized at such sums as may be necessary through 1993. The estimates of the outyear authorization levels reflect the 1989 stated levels adusted for inflation. The cost of the GAO study would be minimal.

TITLE II–TITLE XI

The authorization levels for almost all the programs included in Title II through Title XI are those stated in the bill. The Women's Educational Equity grants, Ellender Fellowships, and territorial assistance are all authorized through 1989. Where the bill changes the authorization levels for 1989, this estimate reflects that change. The outyears are all specified levels. The Workplace Literacy program is authorized at stated levels from 1988 through 1990 and such sums through 1993. The 1991 through 1993 levels reflect the 1990 level adjusted for inflation. The new English Literacy program is authorized for six years at stated levels beginning in 1988. The Partnerships in Education grants are currently authorized for 1988. S. 373 reduces the 1988 authorization level and authorizes the program at such sums through 1993. The outyear levels reflect the new 1988 level adjusted for inflation. The $1 million for Presidential awards for teachers is a one-time, no-year authorization. The wards are assumed to be funded in 1989.

The Star Schools program is authorized for a total of $100 million beginning in 1990. The bill limits appropriation in any one year to $60 million, but does not specify the timing of the funding. This estimate assumes that $60 million is funded in 1990 and the remaining in 1991. The cost of the evaluation of the Star Schools program beginning in 1990 would be minimal. The 1989 authorization level for the Bilingual Education grants for state data collection, evaluation, and research is the amount set aside under the overall Bilingual Education specified level adjusted for inflation. The outyears reflect the 1989 level adjusted for inflation.

Both the Basic Skills Demonstration program and the School Dropout Demonstration projects are only authorized for 1988 and 1989 at the levels stated in the bill and the Funds for the Improvement of Schools and Teaching are authorized at specified levels through 1991. The National Assessment of Education Progress is currently authorized through 1991 at such sums. The estimate associated with this bill relfects the difference between the new stated levels and the 1987 funding level adjusted for inflation through 1991; after that the estimate is the stated level. This bill authorizes the Optional Tests for Academic Excellence only through 1991. All of the education for Native Hawaiian programs are authorized for 1988 at stated levels and at such sums through 1993. The outyear estimates for these programs reflect the 1988 level adjusted for inflation.

6. Estimated cost to State and local government: S. 373 authorizes $15.2 billion for 1989 in grants to state and local governments. In 1987, actual funding for these programs was $5.7 billion.

Almost all of the grants, $14.6 billion, are formula grants. Formula grants allocate the total amount of funds to state and local governments based on the state's proportion of the national population of specific groups defined in the bill. In the case of Chapter 1 grants to LEAs the population is children age 5 to 17 in poverty; in the case of Chapter 2 grants the population is the total number of children age 5 to 17; and in the case of adult education, the population is the number of adults who do not have a certificate of graduation from a secondary school.

With the exception of the Adult Education grants, which have a 10 percent matching requirement, these formula grants have no requirement that state or local governments provide additional funding to receive the grants. The bill states that these funds are to supplement state and local finances and not supplant them.

The remaining $630 million in state and local government grants are competitive grants for which state and local governments may apply. Some of these grants require state and local governments to match federal funds.

7. Estimate comparison: None.

8. Previous CBO estimate: On May 15, 1987 CBO prepared a cost estimate on H.R. 5, the School Improvement Act, as ordered reported from the House Education and Labor Committee. H.R. 5 reauthorized the existing programs for 1988 through 1993 at different levels, established fewer new programs at different funding levels, and included the reauthorization of the Indian education programs, the immigrant education program, and the drug-free school grants. The total 1989 authorization level in H.R. 5 was $15.6 billion.

9. Estimate prepared by: Deborah Kalcevic.

10. Estimate approved by: C. A. Nuckols, James L. Blum, Assistant Director for Budget Analysis.

VI. Section-by-Section Analysis

TITLE I—BASIC PROGRAMS

Chapter 1—Financial Assistance To Meet Special Educational Needs of Children

Sec. 1001 Declaration of Policy and Statement of Purpose

It is declared to be the policy of the United States to provide assistance to meet the special needs of educationally deprived children at the preschool through secondary education levels, to expand this assistance until all eligible children are served by fiscal year 1993, and to eliminate unnecessary administrative burden in providing this aid. The purpose of chapter 1 is to help educationally deprived children succeed in regular educational programs, attain grade-level proficiency, and improve their achievement in basic and more advanced academic skills.

Part A—Basic Programs Operated by Local Educational Agencies

Subpart 1—Allocations

Sec. 1005 Basic Grants

One percent of chapter 1 appropriations is to be reserved for grants to the Outlying Areas plus the Bureau of Indian Affairs for services to Indian children. The remaining appropriations for basic grants are to be allocated to local educational agencies (LEAs)—or, if appropriate LEA data are not available, on a county basis—in proportion to the formula child count multiplied by a State cost factor. Children counted in the allocation formula are those aged 5-17 years:

—in poor families, according to the most recent decennial Census, and

—in institutions for the neglected and delinquent, or in foster homes, for whose education an LEA (as opposed to a State agency) has responsibility.

The cost factor is the State average expenditure per pupil for public elementary and secondary education, limited to be no more than 120 percent, or less than 80 percent, of the national average expenditure per pupil. The maximum grant amount is 40 percent of the formula child count multiplied by the cost factor; if appropriations are insufficient to pay this amount, then grants are to be proportionally reduced from this maximum level, but with no LEA (county) grant to fall below 85 percent of the previous year amount.

The maximum grant level for Puerto Rico is reduced by an additional formula factor. The formula child count and cost factor are further multiplied by the ratio of Puerto Rico's average expenditure per pupil divided by the lowest average per pupil expenditure for any State.

State education agencies (SEAs) are to allocate county aggregate allocations among LEAs. SEAs may allocate these funds without regard to county boundaries if several LEAs overlap county boundaries. Each LEA (county) must have at least 10 formula children in order to receive a basic grant.

For a limited period of time, the first $85 per month that is earned by a person employed in a chapter 1 program is to be disregarded in determining the eligibility of such a person for assistance under the program of Aid to Families With Dependent Children (AFDC).

The period for which assistance under chapter 1 is authorized is October 1, 1989 through September 30, 1993.

Sec. 1006 Grants for Local Educational Agencies in Counties With Especially High Concentrations of Children From Low-Income Families

Additional chapter 1 grants are authorized to be made to certain LEAs with relatively high numbers or proportions of children counted in the basic grant allocation formula. All chapter 1 appropriations between $4.3 and $4.7 billion, plus 10 percent of any appropriations above $4.7 billion, are to be used for such concentration grants.

There are two separate allocation formulas for concentration grants, each to be applied to one-half of the appropriations. The first formula provides grants on a county basis, in proportion to each county's number of basic grant formula children in excess of either 5,000 children or 20 percent of the total population aged 5–17 years. Grants are allocated in proportion to each county's number of formula children above the threshold(s) (whichever count is greater for the county) in the preceding fiscal year, multiplied by a cost factor that is similar to that used for basic grants. In addition, each State must receive at least 0.5 percent of total concentration grant allocations. In general, these funds are to be distributed by SEAs only to LEAs in each eligible county that have 5,000 or more formula children, or a formula child rate at or above 20 percent. If no LEA in a county receiving concentration grants meets these thresholds, then grants may be made to LEAs that exceed the county average poverty concentration. The other one-half of concentration grant appropriations are to be allocated to States in proportion to State total basic grant allocations, with no State to receive less than 0.5 percent of total allocations. In any State that receives at least 1 percent of the funds allocated under this section, these funds are to be allocated to counties—and to LEAs within eligible counties—in proportion to county shares of State total grants under the first concentration grant formula (see above). In any State receiving less than 1 percent of the funds allocated under the combined concentration grant formula, the SEA is to allocate these funds in the following priority order:

—first, to LEAs in counties that meet the 5,000/20 percent thresholds;
—second, to LEAs that meet the 5,000/20 percent thresholds, regardless of county; and
—third, to any other LEAs in the State that exceed the State average poverty concentration.

However, no funds may be allocated to LEAs in the third priority group until those in the first and second priority groups have received concentration grants equal to their chapter 1 basic grants.

Subpart 2—Basic Program Requirements

Sec. 1011 Uses of Funds

LEAs may use chapter 1 grants only for preschool, elementary, and secondary programs to meet the special educational needs of educationally deprived children. These programs may provide a wide variety of services, including employment of teachers and other personnel, purchase of instructional equipment and materials, personnel training, parental involvement activities, construction of facilities (where necessary), or planning and evaluation activities.

An LEA may use up to 5 percent of its chapter 1 grants for innovation projects, such as incentive payments to schools with successful programs, exemplary parental involvement activities, programs to encourage community and private sector involvement in chapter 1 activities, or continuation of services to certain pupils previously served by chapter 1 but who would otherwise become ineligible.

Sec. 1012 Applications

In order to receive a chapter 1 grant, an LEA must file with its SEA an application covering a period of up to 3 years. The application must provide assurances that the LEA's program will be of sufficient size, scope, and quality to lead to substantial progress in meeting the special educational needs of the children served, that the program provides services to eligible children attending nonpublic schools, and that the program's curriculum is coordinated with that of the participants' regular instructional program (especially in the case of handicapped or limited-English proficient pupils). The application must also include a description of the services to be provided under the program.

Sec. 1013 Eligible Schools

In general, chapter 1 grants are to be used by LEAs to serve pupils who reside in school attendance areas with high concentrations of children from low-income families, in rank order according to degree of such concentration (unless the total enrollment in the LEA is less than 1,000). In the selection of eligible school attendance areas, LEAs are allowed certain forms of flexibility:

—any school attendance areas may be selected if the percentage of children from low-income families varies in each area by no more than 5 percent from the LEA average;
—school attendance areas with a percentage of low-income children of 25 percent or more may be selected;
—under certain circumstances, LEAs may rank and serve school attendance areas on the basis of concentrations of educationally deprived, rather than low-income, children;
—schools may provide chapter 1 services if the proportion of children from low-income families actually in attendance at the school is as high as the proportion of such children residing in an eligible area;
—attendance areas may be served if they were eligible in the preceding year; and
—attendance areas may be skipped if they are provided comparable services from non-Federal funds.

Funds are to be allocated among eligible school attendance areas on the basis of the number of eligible children to be served and their needs, except that children previously eligible and served may continue to be counted for the purpose of these allocations—but not be served—for 2 years after such children are no longer eligible, due to improved academic achievement, to be served.

Sec. 1014 Eligible Children

Children eligible to be served in chapter 1 are those who are educationally deprived, live in an eligible school attendance area (or attend an eligible school), and are between the earliest age at which they can benefit from an organized instructional program through grade 12 or age 21. The educational needs of all educationally deprived children in eligible attendance areas are to be assessed annually, and those most in need are to be served under chapter 1. LEAs may also:

—continue to serve eligible children who transfer to schools that are not eligible to provide chapter 1 services (for the remainder of a school year);
—skip children who are provided services comparable to chapter 1 with non-Federal funds; and
—continue to serve children previously eligible, and who are still educationally deprived, for up to 2 years after they are no longer among those who are most educationally deprived.

Children who are handicapped or limited-English proficient, or who are educationally deprived in addition to their specific handicapping or linguistic conditions, are eligible to be served under chapter 1. In addition, children served during either of the previous 2 years under the chapter 1 State agency program for the neglected and delinquent are eligible for the chapter 1 LEA grant programs.

Sec. 1015 Schoolwide Projects

Chapter 1 program may be conducted on a schoolwide basis—i.e., to serve all pupils attending the school—in schools were at least 75 percent of the children residing in the school attendance area, or of the pupils actually enrolled, are from low-income families. In order for a school to qualify, the LEA must develop a plan for comprehensive assessment of educational needs, establishment of goals to meet these needs, and that describes the school's instructional program and uses of chapter 1 funds. The plan must also be developed in consultation with parents, teachers, and other interested individuals; provide for personnel training; and include procedures for measuring pupil progress. Plans must be approved by the SEA, for a period of up to 3 years. After 3 years, in order for the schoolwide program to be continued, it must be demonstrated that the achievement of educationally deprived children in the school either exceeds the achievement of such children in the 3 years prior to the initiation of the program, or exceeds the average achievement of children participating in chapter 1 in the LEA.

The chapter 1 grant per educationally deprived child served must be the same in schools with schoolwide plans as in other schools with chapter 1 programs; also, the average expenditure per pupil in schools with schoolwide plans may not be less than in the previous year. Chapter 1 funds may be commingled with regular program funds in such schools, but chapter 1 funds must be used to supplement—not supplant—non-Federal funds.

Sec. 1016 Parental Involvement

LEAs may receive chapter 1 grants only if they involve the parents of educationally deprived children in planning and implementing the program's services. Parental involvement activities must be of sufficient size, scope, and quality as to give promise of progress toward meeting the goals of: informing parents about the program; helping parents to instruct their children at home; training personnel to work with parents; and consulting with parents on program activities. LEAs must have a written plan for parental involvement in chapter 1, convene an annual meeting of the parents of participating children, provide to parents reports on their child's progress, and inform parents (in a language and form that they understand) about the program and its parental involvement require-

ments. LEAs may also support a variety of other parental involvement activities. Parents are expected to cooperate with the LEA by becoming knowledgeable about chapter 1 and working with their children at home.

Sec. 1017 Participation of Children Enrolled in Private Schools

Chapter 1 services are to be provided to educationally deprived children, living in eligible school attendance areas, who attend private schools. LEAs are to consult with private school officials and to provide chapter 1 services to such children through such means as dual enrollment, mobile educational services, instructional telecommunications, or other methods. Expenditures for chapter 1 services to private school pupils are to be equal, considering the number of such pupils and their educational needs, to those for public school pupils. Where LEAs are unable to provide, or otherwise have not provided, chapter 1 services to private school pupils, the U.S. Department of Education is to arrange for the provision of services through a third party (bypass). Provisions are made for the initiation or appeal of such bypass arrangements.

Grants are authorized to pay the capital expenses incurred by LEAs, since July 1, 1985, in providing chapter 1 services to private school pupils. Capital expenses are defined as including expenses for the purchase, lease, or renovation of property, insurance, maintenance, or transportation. The authorization level for these grants is $50 million for fiscal year 1989, and such sums as may be necessary for each of fiscal years 1990–1993. These funds are to be allocated to the States in proportion to the number of private school pupils served under chapter 1 in the 1984–85 school year; States are to allocate grants to LEAs in proportion to their need.

Sec. 1018 Fiscal Requirements

In general, no LEA may receive its full chapter 1 grant unless its level of expenditures—either aggregate or per pupil—is equal to at least 90 percent of that for the second preceding year. If an LEA's level of spending falls below this level, then its chapter 1 grant is to be reduced proportionally. This requirement may be waived by the SEA, for one year only, if the SEA finds that the decline in spending was due to exceptional or unforeseen circumstances.

Chapter 1 grants must be used so as to supplement, not to supplant, non-Federal funds that would otherwise be used for the education of participating pupils, both with respect to regular education program expenditures and expenditures for special State or local programs (e.g., State compensatory education programs). State and local funds must also be distributed so as to provide comparable services in areas with and without chapter 1 projects. Such comparability may be demonstrated by evidence that the LEA maintains a districtwide salary schedule, and policies to ensure equivalence among schools in personnel and instructional materials. In determining compliance with the comparability requirement, State and local funds for programs similar to chapter 1—including bilingual and handicapped education programs—may be excluded from consideration if certain conditions are met.

No State may take chapter 1 grants into consideration as a local resource in determining payments to an LEA under a State school assistance or finance program.

Sec. 1019 Evaluations

Each LEA must evaluate its chapter 1 programs, in accordance with national evaluation standards, at least once every 3 years, and must conduct a program review in any year when an evaluation is not conducted. The evaluation is to include objective assessment of the achievement of participating pupils in basic and more advanced skills, must determine whether achievement gains are sustained, must include an evaluation of the program's parental involvement activities, and must be submitted to the SEA.

SEAs are to conduct, in accordance with national evaluation standards, and submit to the Department of Education, chapter 1 evaluations at least every 2 years. SEAs are also to collect and report data on program participation by race, age, gender, handicapping condition, and grade level.

Sec. 1020 Applications by State Education Agencies

SEAs must apply for chapter 1 grants to the Department of Education at least every 3 years. Such applications must include: the procedures the SEA will use in assessing program effectiveness; and procedures for dealing with LEAs that are found to be providing ineffective chapter 1 programs or otherwise not to be complying with chapter 1 requirements. SEA assessment methods shall be in accord with requirements of the Department of Education in order that data from the States may be aggregated and compared; and may take into account such factors as the educational disadvantage and family income of pupils served, the loss of regular class time for participating pupils, or safety concerns regarding the conditions under which services are provided. The Secretary of Education will approve any application meeting the requirements of this section.

Sec. 1021 Program Improvement

If, over 1 year, there is inadequate improvement in the achievement of chapter 1 participants at a school, the LEA must develop a plan for program improvement at that school. If there is no improvement at a school for 2 consecutive years, the LEA is to develop a plan for program improvement in consultation with the SEA. This plan is to be implemented at least until participant achievement improves over a period of more than 1 year. In developing such plans, LEAs and SEAs are to take into consideration such conditions as the mobility of the pupil population, the extent of educational deprivation among participants, the difficulties of providing services to older children under chapter 1, and whether there are indicators of positive program effect other than improved academic achievement.

LEAs are also required to identify, and consider modifications of the services provided to, participating pupils who demonstrate no improvement in achievement over 1 year. If there is no increase in pupil achievement over 2 years, then the LEA is to conduct a thorough assessment of the pupil's educational needs.

An SEA shall take appropriate corrective action regarding any LEA that it finds to have provided ineffective chapter 1 programs, or to have failed to meet any other program requirement, over a period of 2 or more years.

Sec. 1022 Educational Improvement Plan and Activities

In any fiscal year in which SEAs receive additional State administration funds beyond 1 percent of chapter 1 grants or $325,000 (see sec. 1404), SEAs are to submit to the Department of Education an educational improvement plan, developed in consultation with the State's LEAs. This plan is to include the measures the SEA will use to assess school performance under chapter 1, and the technical assistance the SEA will provide to LEAs in assessing school performance or developing school improvement plans.

Part B—Programs for Secondary School Basic Skills Improvement and for School Dropout Prevention

Sec. 1101 Statement of Purpose

The purpose of this part is to provide additional assistance to local educational agencies with high concentrations of low-income children to improve the achievement of educationally disadvantaged children enrolled in their secondary schools and to reduce the number of children who drop out of school.

Sec. 1102 Allocation

Each State shall be eligible to receive a grant under this part that bears the same ratio to the amount appropriated that fiscal year (less 3 percent reserved for programs for migrant children) as the amount allocated to local educational agencies for chapter 1 basic grant programs in the State bears to the total amount allocated to such agencies in all States. However, no State shall receive less than one-half of 1 percent of the amount appropriated for this part any fiscal year.

Each State shall allocate funds to local educational agencies on the basis of the criteria for the allocation of chapter 1 basic grant program funds. State may not reserve more than 5 percent for administrative costs.

Local educational agencies may carry out their activities in cooperation with community-based organizations.

Sec. 1103 Use of Funds

Local educational agencies may not use more than 50 percent of the funds under this part for dropout prevention and reentry activities. The remainder is to be used for secondary school basic skills improvement activities. Not more than 25 percent of the funds may be used for noninstructional services.

Funds for dropout prevention and reentry activities may be used for programs that identify potential dropouts and prevent them from leaving school early; that identify students who already have dropped out and encourage them to return; that identify at-risk students in elementary and early secondary school; that establish model systems for collecting and reporting information on dropouts; that coordinate activities with vocational education, adult

basic education, and Job Training Partnership Act programs; and that are carried out with consortia of community-based organizations and other public and private agencies.

Funds for secondary school basic skills improvement may be used for a variety of activities, including remedial education programs, reduction of scheduling problems and other attendance barriers, transition-to-work programs, guidance and counseling, training of students to serve as tutors, etc.

Sec. 1104 Applications

Among other things, applications must include descriptions of program goals, activities, and services; documentation that qualified personnel are available; assurances of parent involvement; assurances that programs will be operated in schools with the greatest need; assurances that students with the greatest need will be served (including such special populations as students with limited-English proficiency or handicaps); assurances that there are arrangements with local businesses and others for employing graduates of schools receiving assistance under this part; assurances about the participation of private school students; and descriptions of how there will be coordination with community-based organizations, social service agencies, and programs conducted under the Carl D. Perkins Vocational Education Act, the Adult Education Act, the Job Training Partnership Act, and other relevant acts.

Applications must identify which activities are primarily dropout prevention and reentry activities and which are primarily secondary school basic skills improvements activities. The amount of money requested for each type must be shown.

Sec. 1105 Award of Grants

State educational agencies shall award grants to local educational agency programs that serve the greatest need, that are representative of urban and rural regions in the State, that offer innovative approaches to achievement or reducing the number of dropouts, and that show promise of replication and dissemination.

Sec. 1106 Fiscal Requirements

The fiscal requirements applicable to chapter 1 basic grant programs generally also apply to programs under the part. In addition, the funds provided under this part shall be used to supplement chapter 1 funds already used for secondary school programs.

Sec. 1107 Evaluations and Program Improvement

In accordance with national standards, each local educational agency shall evaluate programs assisted under this part, submit the results to their State educational agency at least every 2 years, and consider the results for improving their programs. The program needs of students who remain in the program for more than 3 years must be assessed.

In accordance with national standards, each State educational agency shall conduct and make public evaluations based upon the local evaluations at least every 2 years. They must inform local educational agencies of the data needed. They must collect data on

the race, age, gender, handicapping conditions, and grade-level of children served.

Schools showing a decline in achievement of children served in any 2 consecutive years, or that show no decline in their dropout rates, shall submit detailed improvement plans to the local educational agency. The agencies shall review such schools' plans and provide technical assistance. State educational agencies shall provide technical assistance if achievement declines for an additional 2 years.

Sec. 1108 Authorization of Appropriations

The following appropriations are authorized for this part:
—fiscal year 1990: $400 million
—fiscal year 1991: $450 million
—fiscal year 1992: $500 million
—fiscal year 1993: $550 million.

Part C—Programs Operated by State Agencies

Subpart 1—Programs for Migratory Children

Sec. 1201 Grants—Entitlement and Amount

State educational agencies are eligible to receive grants to establish or improve education programs for migratory children of migratory agricultural workers of migratory fishermen. Grants are based upon the number of eligible migrant children between the ages of 3 and 21, inclusive, residing in a State full time plus the full-time equivalent number of such children residing in a State part-time, multipled by 40 percent of the State average per pupil expenditure within limits of 80 and 120 percent of the national average. The grant for Puerto Rico is reduced in the same manner as its chapter 1 basic program grant is. Adjustments may be made for summer programs and if allocations to some States exceed amounts required.

The number of children upon which grants are calculated is based upon statistics from the migrant student record transfer system or other systems that the Secretary determines accurately and fully reflect the actual number of migrant students. In submitting data, States shall not exceed a standard error rate of 5 percent. For determining student eligibility, the Secretary shall develop a standard certification form.

Sec. 1202 Program Requirements

Payments must be used only for programs designed to meet the special educational needs of migrant children and for the coordination of such programs, including transmittal of student records. They must be coordinated with the College Assistance Migrant Program (CAMP), the High School Equivalency Migrant Program (HEP), the migrant and seasonal farmworker programs under the Job Training Partnership Act, and other programs. In addition, they must be administered in a manner consistent with chapter 1 provisions for use of program funds, applications, children to be served, State administration, and fiscal requirements. Consultation with State and local parent advisory councils is required for pro-

grams extending for the duration of a school year, though general chapter 1 provisions for parent involvement must be followed by all programs. Evaluation is required, including objective measurement of basic skills achievement. Whether gains for served formerly migrant children are sustained must be determined. Provision must be made for preschool education needs.

With the concurrence of parents, migrant status shall be considered to continue for a period not exceeding 5 years after children are no longer migratory. However, currently migrant children shall be given priority.

Definitions in the regulations of "agricultural activity," "currently migratory child," etc., cannot be changed.

Special arrangements may be made with public or nonprofit private agencies to administer the program if States are unwilling or unable to do so, if it would result in more efficient and economic administration, or if it would add substantially to the welfare or educational attainment of the migrant children.

Sec. 1203 Coordination of Migrant Education Activities

The Secretary may make grants, limited to 3 years, to State educational agencies to improve intrastate and interstate coordination of migrant education programs. Contracts for record transfer systems are also authorized. In addition, grants or contracts shall be made to develop and establish a new national program of high school credit exchange and accrual. Funds reserved for these coordination activities shall not be less than $6 million nor more than 5 percent of the total appropriation for migrant education.

Subpart 2—Programs for Handicapped Children

Sec. 1221 Amount and Eligibility

States are authorized to receive chapter 1 grants for the education of handicapped children—including infants and toddlers, where appropriate—who are, or have been, served by State agencies. These funds must be used for programs designed to meet the special educational needs of handicapped children and the early intervention needs of handicapped infants and toddlers. In order to receive a grant, each State must assure that all participating pupils receive a free, appropriate, public education; that the participants and their parents are afforded all of the rights and procedural safeguards provided under parts B and, for infants and toddlers, H of the Education of the Handicapped Act; and that this program will be coordinated with part B of the Education of the Handicapped Act. SEAs must report the number of children served by this program, by disability, age, educational placement, and by whether the program is State-operated, State-supported, or an LEA program.

The amount of the grant a State (other than Puerto Rico or the Outlying Areas) may receive under this program is equal to the number of handicapped children being served, or previously served, by a State program for the handicapped, multiplied by 40 percent of the State average expenditure per pupil (but no more than 120 percent, or less than 80 percent, of the national average expenditure per pupil). For Puerto Rico, the grant is reduced by multiplica-

tion of the minimum expenditure level (80 percent of the national average) by the ratio of the average expenditure per pupil for Puerto Rico divided by the lowest average expenditure per pupil for any State.

Children who have transferred from State to LEA programs may be counted in determining grants only if the State transfers a proportionate amount of its grant to the LEAs. Handicapped children aged 3–5 may be counted only if the State is eligible for a grant under sec. 619 of the Education of the Handicapped Act.

Sec. 1222 Service and Program Applications

In order to receive funds under this program, a State agency or LEA must file an application with the SEA at least every 3 years. This application must include a description of the children to be served; the services to be provided; and assurances: that the participants and their parents are afforded all of the rights and procedural safeguards provided under parts B and, for infants and toddlers, H of the Education of the Handicapped Act; that grants will be used to supplement, not supplant, non-Federal funds; that programs will be of sufficient size, scope, and quality as to give promise of progress toward meeting the special educational needs of the children served; that the recipient will maintain its fiscal effort at the level of at least 90 percent of its expenditure (either aggregate or per pupil) in the second preceding year; that parents will be afforded an opportunity to participate in the program; and that the recipient will assess the program's benefits to participants. A letter of request may be substituted for the application if an agency is to serve fewer than 5 children.

Sec. 1223 Uses of Funds

Grants under this program may use for such purposes as the acquisition of equipment and materials, training and employment of special personnel, training of parents or nonhandicapped children to work with handicapped children, outreach activities, or program planning and assessment. Funds provided under this program may not be used for the construction of facilities.

Sec. 1224 Eligible Children

In general, children eligible to be served under this program are those who are handicapped, aged birth to age 21 years, and who are being, or previously have been, served in a State-operated or supported program for handicapped children. If all such children have been fully served, then program grants may be used to serve other handicapped children.

Sec. 1225 Federal Monitoring Requirement

When the Department of Education conducts monitoring visits of programs under part B of the Education of the Handicapped Act, programs under this subpart shall also be monitored.

Supart 3—Programs for Neglected and Delinquent Children

Sec. 1241 Amount and Entitlement

State agencies responsible for providing educational services to children in institutions for the neglected and delinquent, or adult correctional institutions, may receive grants under this subpart. The amount of the grant a State (other than Puerto Rico or the Outlaying Areas) may receive under this program is equal to the number of neglected and delinquent children being served, multiplied by 40 percent of the State average expenditure per pupil (but no more than 120 percent, or less than 80 percent, of the national average expenditure per pupil). For Puerto Rico, the grant is reduced by multiplication of the minimum expenditure level (80 percent of the national average) by the ratio of the average expenditure per pupil for Puerto Rico divided by the lowest average expenditure per pupil for any State.

Sec. 1242 Program Requirements

Funds under this program may be used only for services designed to meet the special educational needs of neglected and delinquent children. Grants may be used for the acquisition of equipment and, where necessary, the construction of facilities. These services are to supplement, not supplant, the basic educational services that must be provided by the State. The recipient agency must maintain its fiscal effort at the level of at least 90 percent of its expenditure (either aggregate or per pupil) in the second preceding year. Programs under this subpart are to be annually evaluated for their effect on the ability of participants to maintain educational achievement and school credit, and to make the transition to a regular educational program in an LEA.

Sec. 1243 Transition Services

States may reserve up to 10 percent of grants under this subpart for programs to facilitate the transition of participants to locally operated educational programs. These programs shall be conducted in schools other than State-operated institutions.

Sec. 1244 Definitions

Definitions are provided for "institution for delinquent children" and "institution for neglected children."

Subpart 4—General Provisions for State Operated Programs

Sec. 1291 Reservation of Funds for Territories

Up to 1 percent of the amount appropriated for subparts 1–3 of this part are authorized to be appropriated for grants to the Outlying Areas.

Sec. 1292 Dual Eligibility for Programs

Neglected and delinquent children counted in determining grants under subpart 3, who are also eligible for programs for handicapped children under subpart 2, may be counted in determining grants, and be served, under each program.

Part D—Payments

Sec. 1401 Payment Methods

The Secretary of Education shall pay to the States the amounts they are eligible to receive under chapter 1, taking into account the extent to which amounts previously paid to each State varied from the amount the State should have received.

Sec. 1402 Amount of Payments to Local Educational Agencies

SEAs are to pay each LEA the amount of chapter 1 funds it is eligible to receive.

Sec. 1403 Adjustments Where Necessitated by Appropriations

If appropriations for all of chapter 1 are less than the maximum amounts authorized, grants are first to be made at the full authorized level under the State agency programs of part C, subparts 1-3. Grants under other chapter 1 programs are then to be ratably reduced to the level of the remaining appropriations, except that funds are to be reserved for concentration grants as provided in sec. 1006, and no LEA may receive under part A, subpart 1 (LEA basic and concentration grants) less than 85 percent of its previous year grant for such programs.

Sec. 1404 Payments for State Administration

Grants are to be made to the States to pay their costs of administering chapter 1 programs. The amount of these grants is to be the greater of 1 percent of the State's total grants under parts A and C of chapter 1, or $325,000 ($50,000 for each of the Outlying Areas).

In addition, in any fiscal year when total chapter 1 appropriations equal or exceed $4.8 billion, additional State education improvement administration costs are authorized to be paid. There is one authorized payment rate for these additional grants for the first and second fiscal years for which they are made, and a higher payment rate for any subsequent fiscal year. For the first 2 years, the authorized payment rate is the greater of 0.5 percent of grants under parts A and C, or $160,000 ($25,000 for each Outlying Area); for subsequent years the authorized payment rate is the greater of 1 percent of grants under parts A and C, or $325,000 ($50,000 for each Outlying Area).

Sec. 1405 Limitation on Grant to Puerto Rico

Chapter 1 grants to Puerto Rico for any fiscal year may not exceed 150 percent of such grants for the preceding fiscal year.

Part E—General Provisions

Subpart 1—Federal Administration

Sec. 1431 Federal Regulations

The Secretary of Education is authorized to issue regulations as necessary to ensure compliance with the requirements of this chapter. All proposed Federal regulations for chapter 1 must be developed through a negotiated rulemaking process, as defined in the "Procedures for Negotiating Proposed Regulations" (47 Federal

Register 30708). Participants in the negotiated rulemaking process should include Federal, State, and local program administrators, parents, teachers, and local school board members.

Chapter 1 programs may not be required to follow any one instructional model.

Sec. 1432 Availability of Appropriations

Funds appropriated for chapter 1 for any fiscal year shall become available for obligation on July 1 of such fiscal year and remain available through the end of the subsequent fiscal year. However, not more than 25 percent of funds appropriated for fiscal year 1989, or 15 percent of funds appropriated for fiscal year 1990 or beyond, may be carried over by grantees to the second subsequent fiscal year. This limitation does not apply to LEAs that receive less than $50,000 per year in chapter 1 grants. Also, SEAs may grant a one-time waiver of these limitations to an LEA.

Sec. 1433 Withholding of Payments

If the Secretary of Education finds that a State or LEA has failed to substantially comply with a requirement of chapter 1, a notice will be provided to the SEA, with an opportunity for hearing on the record, that within 60 days, further payments will not be made to the SEA on behalf of the affected State or local agencies.

Sec. 1434 Judicial Review

If a State is dissatisfied with an action by the Secretary under sec. 1433, it may, within 60 days of receipt of the notice, file a petition for review of the action by the relevant United States court of appeal. Any withholding of funds shall be suspended pending the decision of the court. The court may affirm or set aside the Secretary's action, in whole or in part, and its judgment shall be subject to review by the U.S. Supreme Court.

Sec. 1435 Evaluation

The Department of Education is to develop, in consultation with State and local educational agencies, national standards for local evaluation of chapter 1 programs. These standards are to provide for national aggregation of evaluation results, and a report of such national findings is to be made by the Secretary of Education to the appropriate committees of Congress every 2 years.

Sec. 1436 Coordination of Federal, State, and Local Administration

Within 6 months after publication of final regulations for chapter 1, the Secretary of Education shall prepare a policy manual that includes the requirements applicable to chapter 1 programs, explanations of the purposes of and relationships among the requirements, summaries of relevant advisory opinions, court decisions, and final audit determinations, administrative procedures of the Department of Education, and model forms, policies, and procedures for SEAs. The purpose of the manual is to assist State and local educational agencies, parents, and staff of the Department of Education in the performance of their responsibilities under this chapter.

The Department of Education shall continue and expand the technical assistance centers to aid State and local educational agencies. Assistance is to be provided especially in the areas of program improvement, parental involvement, instruction, testing, evaluation, and curriculum. The centers are to be accessible through electronic telecommunications.

The Secretary is to arrange for dissemination of information about exemplary chapter 1 programs through the National Diffusion Network.

State and local administration—especially policies, guidance, monitoring, and enforcement activities—are to be reviewed by the Department of Education.

Sec. 1437 Authorization of Appropriations for Evaluation and Technical Assistance

For sections 1435 through 1437, there is appropriated $8.0 million for fiscal year (FY) 1989, $8.4 million for FY 1990, $8.8 million for FY 1991, $9.2 million for FY 1992, and $9.7 million for FY 1993.

Sec. 1438 Application of General Education Provisions Act

Certain General Education Provisions Act (GEPA) provisions are specifically superceded by provisions of chapter 1. Otherwise, the GEPA applies to chapter 1 programs.

Subpart 2—State Administration

Sec. 1451 State Regulations

State chapter 1 regulations may not limit LEA decisions regarding the grade levels to be served, the basic skill areas to be addressed, the instructional settings, materials, or teaching techniques to be used, instructional staff employed, or support services provided in local chapter 1 programs. Except in cases of emergency, any State regulation for chapter 1 must be reviewed by a State committee of practitioners before publication. Also, all State regulations shall be identified as State imposed requirements.

Sec. 1452 Records and Information

SEAs are to make available to the Department of Education information necessary for fiscal audit and evaluation of chapter 1 programs.

Sec. 1453 Assignment of Personnel

Personnel paid entirely from chapter 1 may be assigned limited supervisory duties comparable to those assigned to similar personnel paid from non-Federal funds, although such activities may not consume more than one period per day.

A State may use chapter 1 funds to pay the salaries of personnel who administer both chapter 1 and a State compensatory education program, if each employee's time and salary costs are prorated between the programs.

Subpart 3—Studies

Sec. 1461 National Study on Effect of Programs on Children

The Secretary of Education shall contract with an organization to carry out a national longitudinal study of children participating in chapter 1. The study is to assess the impact of chapter 1 on a wide variety of pupil characteristics and experiences through age 18, with follow-up surveys through age 25. An interim report is to be made to the appropriate congressional committees by January 1, 1993, and a final report by January 1, 1997.

Sec. 1462 Study of Fund Distribution

The Secretary of Education is required to conduct a study of the allocation formulas for all elementary and secondary education programs of the Department of Education. The study must consider whether States and LEAs should receive higher grants if they exhibit relatively high tax or fiscal effort for public elementary and secondary education, the reliability and currency of poverty population data used for chapter 1 allocations, and other issues. An interim report is due on June 30, 1990, and a final report on June 30, 1991.

Sec. 1463 Study of State-Operated Program for Handicapped Children

The Comptroller General of the United States shall conduct a study of the chapter 1 State agency program for handicapped children. The study, which is to be completed by January 30, 1989, must include a description of the agencies involved and children served by the program, the services provided, how the program is administered, how it is determined that a child is eligible to be counted for payments under this program, policies governing the placement of children, and the relationship between this program and that under part B of the Education of the Handicapped Act. The study is to include State-level data, and legislative recommendations.

Sec. 1464 Authorization of Appropriations

For carrying out the studies required in sections 1461 and 1462, there is authorized to be appropriated $4.0 million for FY 1989, $4.2 million for FY 1990, $4.4 million for FY 1991, $4.7 million for FY 1992, and $5.0 million for FY 1993.

Subpart 4—Definitions

Sec. 1471 Definitions

Definitions are provided for a variety of terms used in chapter 1. New definitions are provided for the terms "pupil services personnel," "parent advisory council," "more advanced skills," and "community-based organizations."

Subpart 5—Miscellaneous Provisions

Sec. 1491 Repeal of Other Acts

Both chapter 1 of the Education Consolidation and Improvement Act and title I of the Elementary and Secondary Education Act are repealed.

Sec. 1492 Transition Provisions

All regulations, determinations, grants, etc., issued under—or pending judicial or administrative procedures related to—chapter 1 of the Education Consolidation and Improvement Act or title I of the Elementary and Secondary Education Act (as in effect on the day before enactment of this Act) shall continue in effect until modified or revoked by the Secretary, by a court of competent jurisdiction, or other law. During the period of October 1, 1988 through June 30, 1989, grants may be used under the terms of either chapter 1 of this Act or chapter 1 of the Education Consolidation and Improvement Act.

Chapter 2—Programs for Elementary and Secondary Education Improvement

Sec. 1501 Statement of Purpose

The purpose of this chapter is to provide a single grant to states to meet State and local needs and priorities related to specified critical needs in education. State educational agencies are to have the responsibility for the administration of funds, but program design and implementation will mainly be the responsibility of local educational agencies.

Sec. 1502 Authorization of Appropriations; Duration of Assistance

There are authorized to be appropriated for chapter 2 $580.0 million for FY 1989, $610.0 million for FY 1990, $640.0 million for FY 1991, $672.0 million for FY 1992, and $706.0 million for FY 1993.

Part A—State and Local Programs

Sec. 1511 Allotment to States

From the amount appropriated in any fiscal year, the Secretary is to reserve two amounts: (1) no more than one percent for payments to the Outlying Areas (Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands); and (2) no more than 6 percent for national programs and activities. From the remainder, States are to receive grants in proportion to their school-age population (children ages 5 through 17 years old), except that no State shall receive less than one-half of one percent of the remainder.

Sec. 1512 State Applications

Each State that desires to receive a chapter 2 grant must file an application at least once every 3 years. The application must provide for active and continuing consultation of an advisory committee, appointed by the Governor and representative of educational interests and the general public within the State. The application

must describe the use of funds reserved for the State educational agency and the participation in chapter 2 programs of children enrolled in private schools. The application must provide for timely public notice with regard to State program implementation, for the evaluation of program effectiveness, and for an assurance that the State agency will not influence local decisions with regard to the use of chapter 2 funds beyond compliance requirements.

Sec. 1513 Allocation to Local Educational Agencies

Each State must distribute no less than 80 percent of its chapter 2 funds each year to local educational agencies. Distribution is to be proportional to public and private enrollment (private enrollment is counted only for students enrolled in private schools that desire to participate in chapter 2 programs), adjusted to provide higher per pupil allocations to agencies with the greatest numbers of percentages of children whose education imposes an above-average cost per child (such as children from low-income families, children living in economically depressed urban or rural areas, or children living in sparsely populated areas.

Sec. 1514 Local Applications

Each local educational agency that desires to receive chapter 2 funds must submit an application to the State educational agency at least once every 3 years. The application must describe the programs, projects, and activities that are to be supported with funds, describe the implementation of programs for children in private schools, agree to provide information related to fiscal audits and program evaluation, and agree to systematic consultation with parents and school personnel with regard to program implementation. Each local educational agency must ensure that its expenditure of chapter 2 funds meets the educational needs within the schools of that agency.

Part B—Targeted Assistance for Educational Improvement

Sec. 1531 Targeted Use of Funds

State and local use of chapter 2 funds is limited to 11 types of programs that: (1) meet the special educational needs of students at risk and high cost students; (2) improve the education of disadvantaged secondary school students and reduce the number of illiterate students and adults; (3) identify and educate gifted and talented students; (4) improve student dropout prevention and facilitate the reentry of students who have dropped out of school; (5) increase parental involvement in the education of economically disadvantaged children and increase the literacy of such parents; (6) provide early childhood education; (7) enrich secondary school curricula; (8) provide for the acquisition and use of school library books, textbooks, and related materials and equipment; (9) implement school-wide reforms, innovations, and improvements or provide for the training and professional development of school personnel; (10) enhance personal excellence of students and student achievement; and (11) implement educational reforms adopted by the State.

Sec. 1532 Authorized Activities

State or local use of chapter 2 funds may include the planning, development, or operation and expansion of targeted assistance programs, projects, or activities authorized under section 1532. In addition, it may include educational personnel training related to targeted assistance, guidance and counseling services, or any other activity determined to contribute to the expansion of educational opportunities or the improvement of targeted assistance programs.

Part C—National Programs and Activities

Sec. 1561 General Authority

Funding priorities are given for various national programs related to chapter 2. Minimum amounts are specified, subject to the availability of funds, as follows: $11.2 million for National Diffusion Network Activities; $8.2 million for the Inexpensive Book Distribution program; $3.5 million for the Arts in Education program; $3.2 million for the Law-Related Education program; and $1.5 million for the Blue Ribbon Schools program.

Sec. 1562 National Diffusion Network Activities

The Secretary is authorized to conduct National Diffusion Network activities in order to recognize and promote excellence in elementary, secondary, and postsecondary education. The Secretary must implement these activities by identifying exemplary programs, products, practices, and services; assisting in their implementation; ensuring rigorous evaluation; providing program development and dissemination assistance; and ensuring that innovations represent significant changes in educational practice.

Sec. 1563 Inexpensive Book Distribution Program for Reading Motivation

The Secretary is authorized to conduct an Inexpensive Book Distribution program through a contract with Reading is Fundamental (a private nonprofit organization) that motivates children to read through programs that include the distribution of inexpensive books to students. The contractor is to enter into subcontracts with local groups, organizations, or agencies that operate reading motivational programs and that pay the non-Federal share of program costs. The contractor or subcontractor must make arrangements with book publishers or distributors to obtain books at favorable discounts. The Federal share is specified at 100 percent of the cost of books for children of migrant or seasonal farmworkers, and 75 percent of the cost of books for all other children.

Sec. 1564 Arts in Education Program

The Secretary is authorized to conduct an Arts in Education program to encourage and assist programs in which the arts are an integral part of elementary and secondary school curricula. Activities include programs with public and private organizations, agencies, and institutions; model projects and programs in the performing arts through arrangements with the John F. Kennedy Center for the Performing Arts; and model programs and projects in the

arts for individuals with handicaps through arrangements with the National Committee, Arts for the Handicapped.

Sec. 1565 Law-Related Education Program

The Secretary is authorized to conduct a Law-Related Education program that provides education to equip non-lawyers with knowledge and skills pertaining to the law, the legal process, the legal system, and the principles and values on which they are based. Activities may include promoting law-related education, supporting new and ongoing programs, supporting a clearinghouse and providing technical assistance, training of personnel, supporting research and evaluation, assisting law-related organizations, and supporting youth internships.

Sec. 1566 Blue Ribbon Schools Program

The Secretary is authorized to conduct a Blue Ribbon Schools program that recognizes excellence and quality in elementary and secondary schools or programs. The Secretary must make competitive selections within categories of educational programs, such as outstanding elementary schools or outstanding reading programs. Selection procedures must be specified by the Secretary. Local educational agencies must submit applications for recognition under the program.

Sec. 1567 Secretary's Discretionary Fund

The Secretary is authorized to conduct programs and projects that contribute to the objectives specified for State and local programs authorized under chapter 2, with priority consideration to be given to technology education projects.

Part D—General Provisions

Sec. 1571 Maintenance of Effort; Federal Funds Supplementary

In order to receive its full chapter 2 allocation in any fiscal year, each State must spend for the provision of free public education an amount equal to at least 90 percent of the amount it spent in the preceding year. The Secretary shall reduce a State's allocation by the percentage by which it fails to maintain such expenditures; the Secretary may waive this requirement, for 1 year only, under exceptional or uncontrollable circumstances. Chapter 2 funds may be used by State and local educational agencies only to supplement or increase the funds available from non-Federal sources; they may not be used to supplant State or local funds.

Sec. 1572 Participation of Children Enrolled in Private Schools

Children enrolled in private schools (and their teachers and other educational personnel serving such children) are authorized to participate in local chapter 2 programs, and in State instructional or training programs funded by chapter 2. Services provided must be consistent with the number of such children within a local educational agency eligible to receive chapter 2 funds, and expenditures must be equal (consistent with the number of such children) to expenditures for prublic school children under this chapter. A public agency must maintain control of funds and title to materi-

als, equipment, and property. The Secretary must arrange for the provision of chapter 2 service if a State or local educational agency has been found to have failed or to be unwilling to provide such services. Funding for services to private school children must be paid from the appropriate grants to State and local educational agencies.

Sec. 1573 Evaluations and Reporting

Local educational agencies must report annually to the State educational agency or their use of chapter 2 funds. State educational agencies must evaluate annually the effectiveness of State and local chapter 2 programs. Such reports and evaluations must be made available to the public. State educational agencies must submit copies of the evaluation and reports to the Secretary. The Secretary must develop a model data collection and reporting system that may be used by State educational agencies. No later than October 1992, the Secretary must submit a report to the Congress summarizing State evaluations in order to provide a national overview of the uses of chapter 2 funds and the program's effectiveness.

Sec. 1574 Federal Administration

The Secretary shall provide technical assistance under this chapter to State and local educational agencies only upon their request, and shall issue regulations only to the extent necessary to ensure compliance with specific requirements and assurances required under this chapter.

Sec. 1575 Repeal of Chapters 2 and 3 of the Education Consolidation and Improvement Act of 1981

Chapters 2 and 3 of the Education Consolidation and Improvement Act of 1981 are repealed.

Sec. 1576 Transition Provisions

Regulations and other legal instruments issued under chapters 2 and 3 of the Education Consolidation and Improvement Act of 1981, and in effect on the effective date of this Act, shall continue in effect until modified or revoked by the Secretary, by a court, or by operation of law other than this Act. The provisions of this chapter shall not affect pending administrative or judicial proceedings under chapters 2 or 3 of the Education Consolidation and Improvement Act of 1981. For the period October 1, 1988, through June 30, 1989, no recipient of funds under this Act or under chapter 2 of the Education Consolidation and Improvement Act of 1981 shall be held in violation of the requirements of either Act if the funds have been spent in accordance with either Act.

Title II—Special Programs for Innovation in Education

Part A—Even Start

Sec. 2001 Short Title

This part is the "Even Start Act."

Sec. 2002 Statement of Purpose

The purpose of this part is to integrate early childhood and adult education programs, through cooperative projects using community resources.

Sec. 2003 Program Authorized

The Secretary of Education is authorized to make grants to local educational agencies (LEAs), or LEA consortia, for Even Start Projects.

Sec. 2004 Uses of Funds

Grants under this part are to pay the Federal share of family-centered education programs that enable parents to become partners in the education of their children. Such programs are to include the recruitment and screening of eligible children and parents, provision of necessary support services (such as child care or transportation), staff training, instruction in adult literacy and training of parents to aid in the education of their children, plus coordination of services with those under title I, chapter 1 of this Act, the Adult Education Act, the Job Training Partnership Act, the Head Start program, the Education of the Handicapped Act, and other relevant programs. The Federal share of the costs for Even Start programs is limited to 90 percent for the first year, 80 percent the second year, 70 percent the third year, and 60 percent the fourth and subsequent years.

Sec. 2005 Eligible Participants

Those eligible to participate in Even Start programs include parents eligible for services under the Adult Education Act, plus their children aged 1–7 years who reside in chapter 1 basic grant target school attendance area.

Sec. 2006 Applications

LEAs wishing to receive an Even Start grant must submit applications to the Secretary of Education. Such applications must include documentation of the qualifications of the personnel who will participate in the project; a description of the project's goals, services, and participants; a description of cooperative efforts with other educational agencies or institutions, and community-based organizations; methods that will be used to involve those most in need of the services, including the handicapped and limited-English proficient; and methods for coordination of services under this part with those of other relevant Federal, State, or local programs.

Sec. 2007 Approval of Applications

In approving applications for Even Start grants, the Secretary of Education is to give special consideration to proposals that serve the greatest percentage of eligible children and parents, show the greatest promise of success and replicability and demonstrate the greatest degree of collaboration and cooperation. There shall be an equitable distributions of grants among the States and between urban and rural areas. Grants are to be made for up to 4 years, but

the Secretary may refuse to renew a grant if insufficient progress has been made toward meeting a project's goals.

Sec. 2008 Evaluation

The Secretary shall provide for an independent evaluation of a sample of Even Start programs. The evaluation is to focus on program effectiveness in providing services to special populations, adult education services, parent training, home-based programs for parents and children, personnel training, and coordination with related programs. A review of the results of this evaluation is to be submitted to the Congress by October 1, 1992.

Sec. 2009 Authorization of Appropriations

There is authorized to be appropriated for the Even Start program $25.0 million for fiscal year (FY) 1989, $26.5 million for FY 1990, $27.5 million for FY 1991, $29.0 million for FY 1992, and $30.5 million for FY 1993.

Part B—Effective Schools

Sec. 2051 Program Authorized

This section authorizes grants to State and local educational agencies for effectiveness schools programs.

Sec. 2052 Uses of Funds

This section describes the uses of effective schools funds, which include support for effective schools programs, personnel training, technical assistance, evaluation, parental and community involvement, model and demonstration programs, and educational materials.

Sec. 2053 Effective Schools

"Effective schools programs" are defined as programs: (1) promoting school-level planning, instructional improvement, and staff development; (2) increasing achievement of all children; and (3) achieving certain ongoing conditions. These conditions are: (1) strong and effective leadership; (2) emphasis on basic and higher order skills; (3) safe and orderly schools; (4) expectation that virutally all children can learn; and (5) continuous assessment.

Sec. 2054 Authorization of Appropriations

The annual authorizations are $25.0 million for FY 1989; $26.5 million for FY 1990; $27.5 million for FY 1991; $29.0 million for FY 1992; and $30.5 million for FY 1993.

Part C—Women's Educational Equity

Sec. 2101 Short Title; Statement of Findings and Purpose

This part reauthorizes the Women's Educational Equity Act (WEEA). Its purposes is to provide educational equity for women and girls and financial assistance for meeting the requirements of title IX of the Education Amendments of 1972.

Sec. 2102 Program Authorized

The Secretary is authorized to make grants and enter into contracts with public agencies, private nonprofit agencies and organizations, and individuals in order to achieve the purposes of WEEA at all levels of education.

Support may be provided for demonstration, developmental, or dissemination activities of national, statewide, or other general significance. The first $3.0 million of funds available for WEEA shall be used for these programs. Support not to exceed 2 years may also be provided for establishing and operating projects of local significance, including activities incident to title IX compliance. Additional funds available for WEEA shall be used for either these local programs or for those of general significance.

Sec. 2103 Application and Participation

Applications must provide that assited programs will be administered by applicants or entities they supervise. Programs and evaluation procedures must be described.

Special consideration is to be given to applicants that have not previously received WEEA assistance or that provide equitable geographic distribution throughout the United States.

WEEA should not be construed to prohibit men and boys from participating in the activities it assists.

Sec. 2104 Challenge Grants

Part of the funds for activities of national, statewide, or other general significance shall be used for challenge grants to assist comprehensive or innovative projects. Challenge grants are limited to $40,000. They may be awarded to public agencies, private nonprofit organizations, or to consortia of these groups and individuals.

Sec. 2105 Criteria and Priorities

The Secretary shall establish by regulations separate criteria and priorities for the activities of national, statewide, or other general significance and for projects of local significance.

Sec. 2106 Reports, Evaluation, and Dissemination

Not later than September 30, 1992, the Secretary shall submit to the President and Congress a report on the programs and activities assisted by WEEA. Through the Office of Educational Research and Improvement, the Secretary shall evaluate and disseminate materials and programs developed under WEEA.

Sec. 2107 Authorization of Appropriations

The following appropriations are authorized for WEEA:

—fiscal year 1989: $5.3 million
—fiscal year 1990: $5.6 million
—fiscal year 1991: $5.9 million
—fiscal year 1992: $6.2 million
—fiscal year 1993: $6.5 million.

Sec. 2108 Repeal

Part C of title IX of the Elementary and Secondary Education Act is repealed.

Part D—Gifted and Talented Children

Sec. 2151 Short Title

This part may be cited as "Jacob K. Javits Gifted and Talented Students Education Act of 1987."

Sec. 2152 Findings and Purpose

The Congress finds that gifted and telented children are a national resource vital to the future of the Nation, that the special abilities of these children should be recognized and developed; that gifted and talented children from economically disadvantaged families and who are of limited English proficiency are at greatest risk of being unrecognized and unserved; that States and localities often lack the resources to identify and serve these children; and that the Federal government has a limited but essential role of stimulating research, developing educational personnel, disseminating information and providing technical assistance. The purpose of this Act is to develop research, demonstration, and teacher training programs that will build elementary and secondary schools' capacity to identify and serve gifted and talented children. It is also the purpose of this Act to supplement State, local, and Federal funds for gifted and talented children that are available through the chapter 2 State block grant and the Education for Economic Security Act.

Sec. 2153 Definitions

The Act defines "gifted and talented children," institution of higher education," "Hawaiian native" and "Hawaiian native organizations."

Sec. 2154 Authorized Programs

At least 70 percent of any fiscal year's funding for this Act must be used by the Secretary of Education to make grants, or enter into contracts, with State and local educational agencies, institutions of higher education, or other public and private organizations for the establishment of programs or projects designed to meet the educational needs of gifted and talented children. Applications for these grants or contracts must be made to the Secretary of Education and must meet the requirements established by the Secretary. These programs and projects may provide for preservice and inservice training for education personnel, the establishment of exemplary programs for the identification and education of gifted and talented children, the development of the capacity of State educational agencies and institutions of higher education to assist local educational agencies and nonprofit private schools improve programs for the gifted and talented, and the support of technical assistance and dissemination of information.

No more than 30 percent of any fiscal year's funding can be used for the operation of a National Center for Research and Develop-

ment in the Education of Gifted and Talented Children and Youth. This Center must research methods and techniques for identifying and teaching gifted and talented children, and must conduct program evaluations, surveys, and data collection and analysis that provide information on the objectives of this Act.

Sec. 2155 Program Priorities

The Act establishes two basic program priorities—general priorities and service priorities.

General priority.—The Secretary must give the highest priority to applications that identify and serve children who have not been identified traditionally as gifted and talented (educationally disadvantaged, handicapped, and limited English-proficient), and to programs that improve the capacity of an entire State or region of the Nation to identify and serve gifted and talented children.

Service priority.—The Secretary must award half of each year's grants or contracts to programs or projects that contain a component to served gifted and talented children who are educationally disadvantaged.

Sec. 2156 Participation of Private School Children and Teachers

Children enrolled in private schools (and their teachers and other educational personnel serving such children) are authorized to participate in programs and projects funded under this Act.

Sec. 2157 Administration

The Secretary of Education shall establish or designate an administrative unit within the Department of Education to administer this Act, to coordinate all Department of Education programs for the gifted and talented, and to serve as a focal point of national leadership and information on the educational needs of the gifted and talented.

Sec. 2158 Authorization of Appropriations

There are authorized to be appropriated for this Act $15.0 million for FY 1989. $15.8 million for FY 1990, $16.6 million for FY 1991, $17.4 million for FY 1992, and $18.3 million for FY 1993.

Part E—Family-School Partnership

Sec. 2251 Short Title

This section provides that this part is to be cited as the "Family-School Partnership Act."

Sec. 2252 Findings and Purpose

This section delineates congressional findings that parental involvement improves school achievement and experiences; that significant numbers of children come from families with a single parent or two parents working outside the home, or without a biological parent; that ways of linking families and schools in compensatory education programs need reassessment; and that encouraging family involvement in their children's education should be a matter of Federal policy. The purpose of this Act is to encourage

local educational agencies to increase family involvement in education.

Sec. 2253 Eligible Agency

This section provides that, to be eligible for assistance under this Act, a local educational agency must be eligible for a basic grant under title I, chapeter 1.

Sec. 2254 Demonstration Program Authorized

This section authorizes the Secretary of Education to make demonstration grants to local educational agencies for family-school educational partnership activities. Funds may be used to train families, develop new school procedures and practices, modify school procedures to involve parents of special groups of students, provide educational personnel at local agencies who will coordinate family involvement activities, develop and acquire educational materials for home-based education activities, and provide technical assistance.

Sec. 2255 Application

This section provides that the Secretary of Education is to give special consideration to applicants already a commitment to parental involvement or to those providing reasonable explanations as to why such involvement has not been a high priority.

Sec. 2256 Administrative Provision

This section directs the Secretary to establish an administrative unit in the Department of education for family-school partnerships in education. This unit is to function as a clearinghouse for information on successful programs.

Sec. 2257 Authorization of Appropriations

The annual authorization is $10.5 million for FY 1989; $10.0 million for FY 1990; $11.0 million for FY 1991; $12.5 million for FY 1992; and $14.0 million for FY 1993.

Part F—Allen J. Ellender Fellowship Program

Sec. 2301 Findings

It is found that the provision of opportunities to participate in activities of the Close Up Foundation is a fitting tribute to the late Senator Ellender, because of his interest in the work of the Foundation and his concern for the development of citizenship among young people.

Subpart 1—Program for Secondary School Students and Teachers

Sec. 2311 Establishment

The Secretary is authorized to make grants to the Close Up Foundations, to be used for financial assistance to economically disadvantaged secondary school students and their teachers to praticipate in the Foundation's programs.

79-429 - 87 - 5

Sec. 2312 Applications

The Close Up Foundation's application for funds under this program must assure that funds are used to provide fellowships to economically disadvantaged secondary school students and their teachers, that no more than 1 teacher in a school may receive a fellowship in 1 year, that efforts will be made to include participants from rural, small town, and urban areas, and that special consideration will be given to students with special educational needs.

Subpart 2—Programs for Older Americans and Recent Immigrants

Sec. 2314 Establishment

The Secretary is authorized to make grants to the Close Up Foundation, to be used for financial assistance to economically disadvantaged older Americans (aged 55 years or more) and recent immigrants to participate in the Foundation's programs.

Sec. 2315 Applications

The Close Up Foundation's application for funds under this program must assure that funds are used to provide fellowships to economically disadvantaged older Americans and recent immigrants, that efforts will be made to include praticipants from rural, small town, and urban areas, and that special consideration will be given to persons with special needs.

Subpart 3—General Provisions

Sec. 2331 Administrative Provisions

The Comptroller General of the United States shall have access to such records as are pertinent to audit of a grant made under this program.

Sec. 2332 Authorization of Appropriations

For each of subparts 1 and 2 of this part, there are authorized to be appropriated $3.0 million for fiscal year (FY) 1989, $3.5 million for FY 1990, $4.0 million for FY 1991, $4.5 million for FY 1992, and $5.0 million for FY 1993.

Sec. 2333 Repeal

The legislation that previously authorized this program (P.L. 92-506, as amended) is repealed.

Part G—Territorial Assistance

Sec. 2351 General Assistance for the Virgin Islands

There are authorized to be appropriated $5.0 million for fiscal year (FY) 1989, $5.5 million for FY 1990, $6.0 million for FY 1991, $6.5 million for FY 1992, and $7.0 million for FY 1993, for general assistance to public education in the Virgin Islands.

Sec. 2352 Territorial Teacher Training Assistance

There are authorized to be appropriated $2.0 million for fiscal year (FY) 1989, $2.1 million for FY 1990, $2.2 million for FY 1991, $2.4 million for FY 1992, and $2.6 million for FY 1993, to assist

teacher training programs in the Outlying Areas of the United States.

Sec. 2353 Repeal

The legislation that previously authorized the programs of this part (sections 1524 and 1525 of the Education Amendments of 1978, as amended) is repealed.

Part H—Parental Choice Open Enrollment Demonstration Program in Public Schools

Sec. 2401 Findings and Statement of Purpose

This section describes congressional findings that parental choice programs improve academic achievement, and that there is increased awareness of such success. This program is to provide grants to local educational agencies to determine the success of open enrollment programs in public schools.

Sec. 2402 Demonstration Program Authorized

This section authorizes demonstration grants to local educational agencies. An agency can participate only if it permits elementary and secondary students to enroll, according to parental choice, in its public schools without regard to attendance zones.

Sec. 2403 Use of Funds

This section provides that funds may be used for projects that increase attendance and achievement, accountability for school success, parental involvement and public interest in local schools, that offer distinctive schools with innovative educational approaches, and the provide a wider range of courses to disadvantaged children.

Sec. 2404 Application

This section provides that local educational agencies are to apply to the Secretary of Education, and that consortia of such agencies may also apply for assistance of interdistrict, regional, or statewide parental choice programs.

Sec. 2405 Amount and Duration of Grants

This section limits individual grants to not more than $1.0 million in any fiscal year, unless a local educational agency serves a very large number of students, a consortium of agencies serves large school districts, or any other special circumstances as the Secretary may specify. Grants may be made for a period not to exceed 5 years.

Sec. 2406 Conditions and Limitations

This section allows local agencies already operating a parental choice program to apply for assistance to expand such a program. Local agencies already receiving magnet schools program assistance under title II of this Act to title VII of the Education for Economic Security Act may apply for assistance for additional activities.

Sec. 2407 Evaluation

This section requires that, not later than October 1, 1992, the Secretary of Education is to provide for an independent evaluation of these demonstration programs, and to submit to the Congress the results of such evaluation.

Sec. 2408 Authorization of Appropriations

The annual authorization is $15.0 million for FY 1989; $16.0 million for FY 1990; $17.0 million for FY 1991; $18.0 million for FY 1992; and $19.0 million for FY 1993.

Part I—Rural Education Opportunities

Sec. 2451 Program Authorized

The Secretary of Education if authorized to make grants, or enter into contracts, for the establishment and operation of 10 regional rural assistance centers. These centers must provide technical assistance, consultation, and training to assist State and local educational agencies within the region to improve the quality of education for educationally disadvantaged children who are participating in programs under chapter 1 of title I of this Act and who reside in rural areas or attend small schools.

Sec. 2452 Priority Requirements

The Secretary must give priority to applications that describe specific types of assistance to rural school districts.

Sec. 2453 Corrdination and Dissemination

Each center must coordinate its activities with technical assistance centers established under chapter 1 of title I of this Act, coordinate its activities with State and local chapter 1 programs, and assist in the identification of successful programs and practices for dissemination through the National Diffusion Network.

Sec. 2454 Authorization of Appropriations

There are authorized to be appropriated for the regional rural assistance centers $10.0 million for FY 1989, $10.5 million for FY 1990, $11.0 million for FY 1991, $12.0 million for FY 1992, and $13.0 million for FY 1993.

Part J—Secretary's Fund for Innovation in Education

Sec. 2501 Program Authorized

This section authorizes the Secretary of Education to carry out a program to strengthen elementary and secondary education in the United States. Funded activities are to demonstrate innovative approaches to strengthening subject matter instruction or to show promise of strengthening education in ways that can be replicated. Programs are not limited to those delineated in this part.

Sec. 2502 Materials for Use in Educational Television and Radio Programming

This section authorizes the Secretary to support the development of elementary and secondary materials for educational television

and radio programming. Funds may be used to address educational needs in critical subject matter areas; to train public and private educational personnel; or to promote partnerships involving parents, schools, State educational agencies, institutions of higher education, and the community in which the schools are located.

Sec. 2503 Programs for Computer-Based Instruction

This section authorizes the Secretary to support activities strengthening and expanding computer education resources available in public and private elementary and secondary schools. Funds may be used for acquiring and leasing computer hardware, software, and instructional materials; or for teacher training programs. Applicants must engage in planning activities concerning use of Federal funds for expanding computer resources. Special consideration is given to applicants who train teachers (or train those who will train teachers) for service in: (1) schools with substantial numbers of disadvantaged students, or (2) programs for limited English speaking youth. The Secretary may enter into cooperative agreements with the National Science Foundation and with other designated organizations for training programs.

Sec. 2504 Program for the Improvement of Comprehensive School Health Education

This section authorizes the Secretary to support activities establishing or strengthening comprehensive school health education programs. Such activities will be carried out through an office of comprehensive school health education in the Department of Education.

Sec. 2505 Telecommunication and Video Instruction Program

This section authorizes the Secretary to support programs which use telecommunications and video resources for instructing public and private school students and for teacher training.

Sec. 2506 Youth Sucide Prevention Program

This section authorizes the Secretary to make grants to local educational agencies and private nonprofit organizations for youth suicide prevention programs, upon the completion by the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) of guidelines for this program. ADAMHA is to evaluate the grants made under this authority. No grant made by the Secretary may exceed $100,000 in any fiscal year.

Sec. 2507 Authorization of Appropriation

The annual authorization is $20.0 million for FY 1989; $21.0 million for FY 1990; $22.0 million for FY 1991; $23.0 million for FY 1992; and $25.0 million for FY 1993.

TITLE III—MAGNET SCHOOLS ASSISTANCE

Part A—Magnet Schools To Overcome Racial Isolation

Sec. 3001 Authorization of Appropriations; Reservation

The annual authorizations for this part are $115.0 million for FY 1989; $121.0 million for FY 1990; $127.0 million for FY 1991; $133.0 million for FY 1992; and $140.0 million for FY 1993. In any fiscal year that the appropriation exceeds $75.0 million, priority in the awarding of the excess amount is given to eligible local education agencies that, in the preceding fiscal year, did not receive assistance under this program or title VII of the Education for Economic Security Act. Awards of the first $75.0 million in appropriated funds are not to take into account whether a local educational agency received assistance in the prior funding cycle.

Sec. 3002 Eligibility

This section provides that to be eligible to receive assistance, a local educational agency must be: (1) implementing a student or faculty desegregation plan under court order, order of any State agency or official, or (2) voluntarily implementing (or will implement if provided assistance) a student or faculty desegregation plan approved for purposes of title VI of the Civil Rights Act of 1964.

Sec. 3003 Statement of Purpose

This section provides that assistance is to address minority group isolation in schools and to support courses of instruction strengthening academic subjects and vocational skills of students.

Sec. 3004 Program Authorized

This section authorizes grants to local educational agencies for use in magnet schools that are part of an approved desegregation plan and that bring together students from different social, economic, ethnic, and racial backgrounds.

Sec. 3005 Definition

The term "magnet schools" is defined as schools or education centers offering a special curriculum capable of attracting substantial numbers of students from different racial backgrounds.

Sec. 3006 Uses of Funds

This section authorizes the use of funds for planning and promotional activities related to academic programs, for acquisition of instructional materials, including computers, and for compensation of certified and licensed teachers. The acquisition of resources and the compensation of teachers must be related to improving students' knowledge of math, science, history, English, foreign languages, music, art, or students' vocational skills.

Sec. 3007 Applications and Requirements

This section requires local educational agencies to submit applications for assistance to the Secretary of Education. Among the assurances each such agency must provide are the following: only certified and licensed teachers will be employed in programs being

assisted; the agency will not discriminate on the basis of race, religion, color, national origin, sex, or handicap in (1) hiring, promoting, or assigning employees, (2) assigning students except to carry out an approved desegregation plan, and (3) operating extracurricular activities; the agency will operate a high quality education program encouraging greater parental choice and involvement.

Sec. 3008 Special Consideration

This section requires the Secretary to give priority to applications on the basis of the recentness of the plan, the proportion of minority children involved, the need for assistance, and the extent to which the program's purposes will be achieved. Special consideration is given to the degree to which the projects involve the collaborative efforts of higher education, community-based organizations, State educational agencies, or private organizations.

Sec. 3009 Prohibition

This section prohibits the use of magnet schools assistance funds for consultants, transportation, or any activity not furthering academic improvement.

Sec. 3010 Limitation on Payments

This section provides that, to receive assistance for more than 1 year, participating local educational agencies must make satisfactory progress toward achieving the purposes of this program. No more than 10 percent of an agency's assistance in any fiscal year can be used for planning. States are prohibited from reducing a local agency's State aid or its chapter 2 assistance as a result of the receipt of assistance under this program.

PART B—MAGNET SCHOOLS FOR EDUCATIONAL IMPROVEMENT

Sec. 3101 Statement of Purpose

This section provides that this program is to assist local educational agencies, consortia of agencies, or intermediate educational agencies with significant percentages of minority students to implement magnet schools, without regard to desegregation. Such magnet schools are to promote open enrollment with parental choice and improve academic knowledge among students.

Sec. 3102 Authorization of Appropriations

The annual authorization is $35.0 million for FY 1989; $37.0 million for FY 1990; $39.0 million for FY 1991; $41.0 million for FY 1992; and $43.0 million for FY 1993. No appropriation can be made for this part unless the part A magnet schools program receives an annual appropriation equal to, or greater than, $100.0 million.

Sec. 3103 Eligibility

This section provides that a local educational agency, consortium of agencies, or intermediate educational agency is eligible for assistance only if it submits evidence of a collaborative arrangement with a higher education institution, community-based organization, other local educational agency, State educational agency, or any combination of such entities.

Sec. 3104 Uses of Funds

This section provides that funds can be used for planning and outreach activities to expand and enhance academic programs; for the acquisition of instructional materials, including computers; and compensation of certified and licensed teachers. Such assistance must improve students' knowledge of math, science, history, English, foreign languages, art, music, or improve their vocational skills.

Sec. 3105 Applications

This section requires that applications contain certain information and assurance. Among them are the following: only certified and licensed teachers will teach assisted courses of instruction; the applicant will not discriminate on the basis of race, religion, color, or national origin in hiring, promoting, or assigning personnel, in assigning students except as required under an approved desegregation plan, and in extracurricular activities; funds will promote high quality education programs for agencies with concentrations of minority students; and funds will increase parental choice. Special consideration will be given to projects serving local educational agencies with minority enrollments of at least 60 percent or consortia of such agencies, and to applicants not previously assisted under part A or title VII of the Education for Economic Security Act.

Part C—General Provisions

Sec. 3211 Payments

This section provides that payments for a fiscal year can be obligated and expended by the recipient until the end of the succeeding fiscal year. No agency is to receive more than $4.0 million under this title in any fiscal year. To the extent practicable, the Secretary of Education is to award grants no later than July 1 of the applicable fiscal year.

Sec. 3212 Withholding

Sections 453 and 454 of General Education Provisions Act (withholding and desist orders) apply to the program authorized by this part.

Sec. 3213 Repeal

This section repeals title VII of the Education for Economic Security Act.

TITLE IV—IMPACT AID PROGRAM

Sec. 4001 Short Title

This title may be referred to as the "Impact Aid Reauthorization Act of 1987."

Part A—Public Law 81-874

Sec. 4002 Administrative Amendment

References to the Commissioner of the Office of Education are changed to the Secretary of the Department of Education.

Sec. 4003 Reauthorization

The appropriations authorization for Public Law 874, 81st Congress is extended through FY 1993. The authorization level is $800.0 million for FY 1989, $840.0 million for FY 1990, $880.0 million for FY 1991, $925.0 million for FY 1992, and $970.0 million for FY 1993.

Sec. 4004 Federal Acquisition of Real Property

Section 2(a) of the Act is amended to ensure that the aggregate assessed value of the acquired Federal property is no more than 95 percent of the total assessed value of all real property in the local school district.

Sec. 4005 Payments

This section:

(a) Sets the entitlement level for section 3(a) pupils at 100 percent of the local contribution rate.

(b) Sets the entitlement level for section 3(b) pupils at 25 percent of the local contribution rate.

(c) Sets special rules for section 3(d)(2)(B) regarding comparable districts for determining funds for those districts, and how funding should be determined in those States where no comparable districts exist. The Secretary shall ensure that these special districts exist. The Secretary shall ensure that these special districts make a "reasonable tax effort" and that these districts' tax rates are no lower than 80 percent of the State average.

(d) The Secretary of Education shall ensure that supplemental payments to districts with "unusual geographic factors" are no larger than the increased current expenditures by the district necessitated by the existence of the "unusual geographic factor."

(e) A local contribution rate formula is established for coterminous agencies at 70 percent of the average for all States during the second preceding year.

Sec. 4006 Method of Payment

(a) Payments are to be rounded to the nearest whole dollar.

(b) The Secretary is instructed to return to the Treasury any recovered funds within 5 fiscal years of the original appropriation.

(c) *Preliminary Payments.*—The Secretary is instructed to make preliminary payments to any local district requesting it. The payment is to be equal to 75 percent of the prior year's payment for section 3(a) pupils and 50 percent of the prior year's payment for section 3(b) pupils.

(d) *General Rule on Payments.*—Section 2 and section 3(d)(2)(B) payments are to be made at 100 percent of entitlement. The remaining money, except section 7, is to be split 80 percent/20 percent between section 3(a) and 3(b), respectively.

(e) *Allocation of Payments Rule.*—Section 3(a) districts are broken into three groups. The first group is made up of those districts where children covered under section 3(a) make up at least 20 percent of the total average daily attendance. The second group is made up of those districts with less than 20 percent, but at least 15 percent section 3(a) children. The third group has those districts with less than 15 percent section 3(a) children.

Payments are to be made to these different categories of section 3(a) districts in waves until all the appropriated funds are allocated.

In the first wave, the first group is to receive 80 percent of entitlement. The second group is to receive 60 percent of entitlement. The third group is to receive 40 percent of entitlement.

In the second wave, the first group is to receive 20 percent of entitlement. The second group is to receive 15 percent of entitlement. The third group is to receive 10 percent of entitlement.

If funds are insufficient to fully pay the second wave amounts, the Secretary is to allocate available funds to the three groups based on the following schedule. The first group is to receive 72 percent. The second group is to receive 3 percent. The third group is to receive 25 percent.

In the third wave, the second group is to receive 25 percent of entitlement. The third group is to receive 50 percent of entitlement.

If funds are insufficient to fully pay the third wave amounts, the Secretary is to allocate available funds to the two remaining groups based on the following schedule. The second group is to receive 75 percent. The third group is to receive 25 percent.

Section 3(b) districts are broken into two groups. The first group is made up of those districts where children covered under section 3(b) make up at least 20 percent of the total average daily attendance. The second group is made up of those districts with less than 20 percent section 3(b) children.

Payments are to be made to these different categories of section 3(b) districts in waves until all the appropriated funds are allocated.

In the first wave, the first group is to receive 20 percent of entitlement. The second group is to receive 10 percent of entitlement.

In the second wave, the first group is to receive 30 percent of entitlement. The second group is to receive 5 percent of entitlement.

If funds are insufficient to fully pay the second wave amounts, the Secretary is to allocate available funds to the two groups based on the following schedule. The first group is to receive 75 percent. The second group is to receive 25 percent.

In the third wave, the first group is to receive 50 percent of entitlement. The second group is to receive 85 percent of entitlement.

If funds are insufficient to fully pay the third wave amounts, the Secretary is to allocate available funds to the two groups based on the following schedule. The second group is to receive 75 percent. The third group is to receive 25 percent.

(f) *State Aid Rule.*—State school finance equalization laws that consider P.L. 81-874 funds as a local resource for equalization purposes are restricted in two ways. First, equalization formulas must ensure that the local district will have sufficient funds to equal or

exceed the average per pupil expenditure for the State or comparable districts, whichever is greater. Second, section 2 payments and increases described in section 3(d)(2)(B), 3(d)(2)(C), 3(d)(2)(D) and 3(d)(2)(B)(ii) should not be taken into account when States are determining the financial resources or needs of a district.

(g) *Hold Harmless Rules.*—For section 3(a) children the hold harmless amount is the FY 1987 per pupil payment amount multiplied by the number of section 3(a) children in the particular year. Hold harmless rules for other categories of children are also detailed.

Sec. 4007 Children for Whom Local Agency is Unable to Provide Education

This section amends section 6 of P.L. 81-874 to allow districts to receive funds under both section 3 and section 6.

Sec. 4008 Disaster Assistance

Disaster assistance is amended in a number of areas including eligibility and allowing section 7 funds to also be available for section 16 of P.L. 81-815.

Sec. 4009 Regulation Requirements

This section sets certain restrictions upon the Department's regulatory process. No regulation can become final without a 90 day comment period. No regulation will become effective until the next fiscal year after it becomes final. With certain exceptions, no regulation can provide for a retroactive recovery of funds.

Sec. 4010 Definition

This section makes certain updates to references to titles I, II, and III of the Elementary and Secondary Education Act of 1965, changing them to chapter 1 and 2 of the Robert T. Stafford Elementary and Secondary Education Improvement Act of 1987.

Sec. 4011 Special Assessment Rule for Federal Acquisition of Real Property

This section amends section 2 of P.L. 81-874. The law currently states that in districts where the government has acquired real property, that property must have an assessed value of at least 10 percent of the total assessed value of property in the district in order to be eligible under this section. This section allows districts where this calculation of percentage of total assessed value was previously made incorrectly to be considered in compliance with this provision.

Part B—Public Law 81-815

Sec. 4101 Reauthorization

The authorization of appropriations for P.L. 815, 81st Congress is extended through FY 1993, at the following levels: $25 million for FY 1989, $26 million for FY 1990, $27 million for FY 1991, $28 million for FY 1992, and $29 million for FY 1993.

Sec. 4102 Administrative Amendment

References to the Commissioner of the Office of Education are changed to the Secretary of the Department of Education.

Sec. 4103 Disaster Assistance

(a) *General Rule.*—Changes are made removing the Secretary's ability to designate schools as eligible for construction assistance due to disaster and leaves only that subsection aurhorizing the Director of the Office of Emergency Planning and the President to make such determinations.

(b) *Eligibility.*—Reference is made to section 7(a)(3) of P.L. 81-874, indicating that in the case of a disaster a school district must first use all available funds from State and local sources, and if there is still a shortfall due to the disaster of at least $10,000 or 5 percent of current operating expenditures then they may be eligible.

TITLE V—ADULT AND VOCATIONAL EDUCATION

Part A—Adult Education

Sec. 5001 Short Title

This title may be cited as the "Adult Education Reauthorization Act of 1987."

Sec. 5002 Definitions

The Adult Education Act (AEA) is amended by making a technical change to the definition of "adult" for purposes of the allotment formula, and by modifying the term "adult education" in order to restrict AEA services only to adults who are not enrolled in secondary school.

Sec. 5003 State Plans

Requirements are clarified with regard to AEA programs for persons with limited English proficiency. Such programs may, if necessary, be conducted in the native language, or exclusively in English.

Sec. 5004 Payments

The AEA requirement for the Federal share of program costs is reduced from 90 percent to 75 percent. The maintenance of effort requirement is changed from 100 percent to 90 percent of the amount spent in the previous year. The use of AEA funds to pay for the cost of administration of a State program is limited to 5 percent of the State grant, or $50,000, whichever is greater.

Sec. 5005 Corrections Education Set Aside

The AEA is amended by changing the limitation on the use of funds for the education of institutionalized persons from (a) not more than 20 percent to (b) not less than 10 percent, and by specifying that these funds may be used for programs for corrections education and for other institutionalized persons.

Sec. 5006 Workplace Literacy Partnership Grants

The AEA is amended to establish a new program of workplace literacy partnerships. Demonstration grants for exemplary partnerships are authorized to pay for (a) 70 percent of program costs and (b) administrative costs of State and local educational agencies related to establishing such programs. Partnerships consist of (a) business, industry, labor organizations, or private industry councils and (b) State or local educational agencies, institutions of higher education, and schools (including employment and training agencies or community-based organizations). Programs must be designed to improve the productivity of the workforce through the improvement of literacy skills needed in the workplace, including literacy and other basic skills; completion of high school (or its equivalent); meeting the literacy needs of adults with limited English proficiency; upgrading the skills of workers to meet changing requirements of the workplace; improving the competency of workers in speaking, listening, reasoning, and problem solving; or support services for workers participating in the program. There are authorized to be appropriated for partnerships $30.0 million for FY 1988, $31.5 million for FY 1989, and such sums as may be necessary for each of FY 1990 through FY 1993. In any fiscal year for which the appropriation for partnerships equals or exceeds $50.0 million, formula grants to the States are authorized for similar types of workplace literacy partnerships.

Sec. 5007 English Literacy Grants

The AEA is amended to establish a new program of English literacy grants. Demonstration grants may be made by the Secretary to the States for the establishment, operation, or improvement of English literacy programs for adults with limited English proficiency. Grants shall be available for not more than 3 years. At least 50 percent of each State grant must be used for English literacy programs operated by community-based organizations. No more than 10 percent of the funds available for these grants may be reserved for demonstration programs for (a) new instructional methods and technologies and (b) an information clearinghouse. There are authorized to be appropriated for English literacy grants $25.0 million for FY 1988, $26.3 million for FY 1989, $27.6 million for FY 1990, $29.0 million for FY 1991, $30.5 million for FY 1992, and $32.0 million for FY 1993.

Sec. 5008 Adult Education for the Homeless

The Stewart B. McKinney Homeless Assistance Act (P.L. 100–77) is amended by deleting the provision for the State allotment formula for programs of literacy training and basic skills remediation for homeless adults.

Sec. 5009 Reauthorization

There are authorized to be appropriated for the AEA $200.0 million for FY 1989, $210.0 million for FY 1990, $225.0 million for FY 1991, $235.0 million for FY 1992, $245.0 million for FY 1993. In addition, $2.0 million is authorized to be appropriated for national programs for each of FY 1989 through FY 1993.

Sec. 5010 Repeal

The AEA provision for the National Advisory Council on Adult Education is repealed.

Part B—Vocational Education

Sec. 5101 Technical Amendment

The Carl D. Perkins Vocational Education Act is amended by modifying the 8.5 percent reservation of funds for single parents and homemakers under basic State grants so that these funds may be used for programs for single pregnant women as well.

TITLE VI—EDUCATION FOR ECONOMIC SECURITY

Part A—Reauthorization of Education for Economic Security Act

Sec. 6001 Short Title

This section provides that this title may be cited as "Education for Economic Security Reauthorization Act."

Sec. 6002 Mathematics and Science Education Reauthorized

This section amends title II of the Education for Economic Security Act. Among the changes from current law are the following:

(1) extension through FY 1993 at annual authorizations of $330.0 million for FY 1989, $345.0 million for FY 1990, $365.0 million for FY 1991, $385.0 million for FY 1992, and $405.0 million for FY 1993;

(2) allocation of 95 percent of the annual appropriation among the States, 4 percent of the appropriation for the Secretary of Education's discretionary grants, and 1 percent for Indian students and the Outlying Areas;

(3) deletion of improving foreign language instruction as a purpose of the title;

(4) distribution of 75 percent of State's allocation to elementary and secondary activities with at least 90 percent of those funds awarded to local educational agencies; and

(5) distribution of 25 percent of State's allocation to higher education activities with at least 95 percent of those funds awarded to higher education institutions.

Sec. 6003 Partnerships in Education for Mathematics, Science, and Engineering Reauthorized

This section extends this program, authorized by title III of the Education for Economic Security Act, through FY 1993 at an annual authorization level of $20.0 million for FY 1988 and such sums as may be necessary for the remaining fiscal years.

Sec. 6004 Presidential Award for Foreign Language Teachers

This section amends the program of Presidential Awards for Teaching Excellence in Mathematics and Science, authorized by title IV of the Education for Economic Security Act, by adding separate awards for teaching excellence in foreign languages. One hundred and four awards a year are authorized. The authorized appropriation is $1.0 million.

Sec. 6005 Star Schools Program Authorized

This section amends the Education for Economic Security Act by adding a new title authorizing the "Star Schools Program Assistance Act." This new program is to improve math, science, and foreign language instruction. Demonstration grants are to be made by the Secretary of Education to telecommunications partnerships for acquiring telecommunications facilities and equipment, implementing telecommunications networks, training teachers, developing educational and instructional programming. Such partnerships must be organized on a statewide or multistate basis. At least 50 percent of the funds available in any year must be spent on serving local educational agencies eligible for Federal compensatory education assistance. At least 25 percent of the funds available in any year must be used for instructional programming. There are authorized to be appropriated $100.0 million for the period FY 1990 through FY 1992. The maximum annual appropriation is $60.0 million. The maximum grant to an eligible telecommunications partnership is $10.0 million. An eligible partnership may receive a grant for a second year, but the combined total amount received under this program may not exceed $20.0 million.

Sec. 6006 Repeal

This section repeals title VI (Excellence in Education Act) of the Education for Economic Security Act.

Part B—FOREIGN LANGUAGE ASSISTANCE

Sec. 6501 Short Title

This part is the "Foreign Language Assistance Act of 1987."

Sec. 6502 Findings

It is found that improvement in foreign language education in elementary and secondary education is necessary to the economic and security interests of the United States, and that the Federal Government should provide funds for this purpose.

Sec. 6503 Program Authorized

The Secretary of Education shall make grants to State education agencies (SEAs) for model local programs of elementary and secondary foreign language education. SEA applications for assistance must contain a description of the model foreign language education programs to be assisted, assure that all children who reside in an LEA that receives a grant will have access to the services supported under this program, and provide for evaluation of the foreign language proficiency of participants. The Federal share of the costs of model programs is to be 50 percent.

Recipient local educational agencies (LEAs) are to arrange for services to be provided to nonpublic school pupils residing in the LEA. Expenditures for services to nonpublic school pupils shall be consistent with the number and educational needs of such pupils in the LEA. If the Secretary determines that a State or local educational agency will not meet this requirement, then such services

will be provided to nonpublic school pupils through a third party, bypass arrangement.

Sec. 6504 Allotment

One percent of appropriations for this part is reserved for grants to the Outlying Areas. The remaining funds are to be allocated to the States in proportion to each State's share of the population aged 5–17 years, except that no State shall receive less than 0.5 percent of the aggregate appropriation. After the first year of implementation of this program, States shall receive grants for 2 additional years if the Secretary determines that the first year's grant was used in accordance with the State's application.

Sec. 6505 Definitions

"Foreign language instruction" is defined as including instruction in critical foreign languages, as determined by the Secretary of Education.

Sec. 6506 Authorization of Appropriations

There are authorized to be appropriated for this part $21.0 million for fiscal year (FY) 1989, $22.0 million for FY 1990, $23.0 million for FY 1991, $24.0 million for FY 1992, and $25.0 million for FY 1993.

TITLE VII—BILINGUAL EDUCATION PROGRAMS

Sec. 7001 Short Title

The title may be cited as the "Bilingual Education Act."

Sec. 7002 Policy; Appropriations

It is declared to be the policy of the United States to encourage the establishment and operation of educational programs using bilingual education practices, techniques, and methods; to encourage the establishment of alternative instructional programs for limited English-proficient students when appropriate; and to provide financial assistance to State and local educational agencies, institutions of higher education, and community organizations to assist elementary and secondary schools as well as preschool and adult programs meet the educational needs of individuals of limited English proficiency. Such programs shall be designed to enable students to achieve full competence in English, and may additionally provide for the development of student competence in a second language.

There are authorized to be appropriated for this title $168.0 million for FY 1989, $176.5 million for FY 1990, $185.3 million for FY 1991, $194.5 million for FY 1992, and $200.4 million for FY 1993. From the yearly appropriated sums, at least 60 percent shall be used for part A bilingual education programs. Of that amount, at least 75 percent shall be reserved for transitional bilingual education programs, with no more than 25 percent of the yearly appropriations used for special alternative instructional programs. At least 25 percent of the yearly appropriations is to be used for training activities. In addition, such sums as may be necessary for FY 1989 and each of the 4 succeeding fiscal years are authorized to be appropriated to provide grants for State educational agency pro-

grams. Notwithstanding the above provisions, the maximum amount authorized to be appropriated for this title is $176 million for FY 1989.

Sec. 7003 Definitions; Regulations

Definitions are given for the following terms: limited English proficiency/proficient, native language, low-income, program of transitional bilingual education, program of developmental bilingual education, special alternative instructional programs, family English literacy program, programs of academic excellence, Office, Secretary, and other programs for persons of limited English proficiency.

The Secretary of Education is required to consult with State and local educational agencies or organizations representing persons involved in bilingual education when prescribing regulations. The Secretary may not further define, restrict, or expand the terms defined. Parents of children in programs assisted under this title must be informed in a language and form the parents understand of the goals of the program and the progress of their children.

Part A—Financial Assistance for Bilingual Education Programs

Sec. 7021 Bilingual Education Programs

Funds under this section shall be used for the establishment, operation, and improvement of programs of transitional bilingual education; developmental bilingual education; special alternative instruction; academic excellence; family English literacy; bilingual preschool, special education, gifted and talented education; and instructional materials development.

Grants may be made to local educational agencies and institutions of higher education for programs of transitional bilingual education, developmental bilingual education, special alternative instruction, and academic excellence. Grants may be made to local educational agencies, institutions of higher education, and private nonprofit organizations for family English literacy programs and bilingual preschool, special education, and gifted and talented education programs.

Application for grants for transitional, developmental, and alternative instructional programs shall be made to the Secretary and include information on the participants' enrollment, residency, limited English proficiency, and educational need. Applicants must exhibit sufficient resources to develop and operate the program and strategies for measuring and achieving stated program goals and objectives. Applications for alternative instructional programs will be given special priority if they are made on behalf of agencies having schools where diverse languages are represented, qualified personnel is lacking, or native language instructors are difficult to obtain because of small numbers of students. Applications for grants for academic excellence programs shall contain information regarding children being served, program effectiveness, parent involvement, and existing programs and their personnel. Applications for grants for family English literacy programs shall contain information on numbers to be served, program activities, and the

applicant's prior performance in addressing family literacy and local coordination plans.

Applications for grants for transitional, developmental, and alternative instructional programs shall be developed in consultation with the State educational agency and an advisory council, which includes parents and other interested individuals. The applicant shall continue this consultation with parents and other interested individuals after approval of the application.

An application for a grant may be approved if the Secretary determines the program will use qualified personnel; meet the needs of children enrolled in private schools; perform proper evaluations; supplement State and local funds; build its capacity to eventually function with little or no Federal assistance; secure training for its personnel; and maintain within the State an equitable distribution of assistance.

Priorities are established for awarding grants for special alternative instructional programs to schools that have many languages represented, in which qualified bilingual instructors are limited, or in which there are small numbers of students. The Secretary shall give special priority to applications from geographic regions where limited English proficient students have been historically underserved. The Secretary shall withhold approval of an application or reduce funding for an applicant if limited English proficient children enrolled in nonprofit private schools are unable to participate in programs funded under this title.

A limit of 3 years is set on the length of time a grant may be funded for transitional, developmental, and alternative instructional programs, with the first 6 months devoted to preservice personnel training activities, unless the Secretary determines the preservice period unnecessary. These grants may be funded for an additional 2 years upon reapplication. Grantees must inform parents of children enrolled in the program or project in a language and form they understand of the need of their children for bilingual education programs, the nature of the program, and alternative programs from which they may choose. Grants made for programs of academic excellence and family English literacy shall be for a period of 3 years. Grants made for bilingual preschool, special education, gifted and talented education, and instructional materials development programs shall be for a period of 1 to 3 years.

A limit of 3 years is also set on the length of time a student may be enrolled in a transitional or alternative instructional program, unless Federal funds are available and the student's continuing need for the program is proven and documented. However, no student shall remain in a federal program for more than 5 years.

Sec. 7022 Indian Children in Schools

The terms "Indian tribe" and "tribally sanctioned educational authority" are defined and considered local educational agencies for purposes of funding bilingual education programs for Indian children under this title. The Assistant Secretary of the Interior for the Bureau of Indian Affairs shall submit an annual report to Congress, the President, and the Secretary of Education concerning the needs of Indian children with respect to this title, and an as-

sessment of how these needs are being met with previously provided funding.

Part B—Data Collection, Evaluation, and Research

Sec. 7031 Use of Funds

Funds under this section shall be used for data collection, evaluation, research, and analysis.

Sec. 7032 Grants for State Programs

State educational agencies may use Federal grant funds for planning and development of programs; review and evaluation; provision, coordination, and supervision of nonfinancial assistance to local educational agencies, communities, and private schools; needs assessment of persons of limited English proficiency; and staff training. The Secretary shall pay each State educational agency which has an approved program, the amount necessary for the operation of the State program. The minimum amount paid to a State educational agency for any fiscal year is $50,000. The maximum amount is 5 percent of the total grants awarded to local educational agencies, private schools, institutions of higher education, or nonprofit organizations within the State in the preceding fiscal year. Federal funds granted to States shall be used to supplement and increase the level of State funds for bilingual education programs. State educational agencies shall submit annual reports on the condition of their State programs to the Secretary.

Sec. 7033 Program Evaluation Requirements

Six months after the enactment of this section, the Secretary shall issue regulations developed by the Director of the Office of Bilingual Education and Minority Language Affairs providing for the collection of information and data on program participants, educational activities, program staff, and student educational progress.

Sec. 7034 Evaluation Assistance Centers

The Secretary shall establish at least two evaluation assistance centers. These centers shall provide assistance on methods and techniques for assessing the educational needs and progress of limited English proficient persons.

Sec. 7035 Research

The Secretary shall provide financial assistance for research and development by institutions of higher education, private and nonprofit organizations, State and local educational agencies, and individuals. Research shall include evaluation of effective models of bilingual education programs; examination of linguistic skills acquisition and academic achievement; longitudinal studies on program effectiveness; and studies on effective preservice and inservice personnel training.

Sec. 7036 Coordination of Research

The Assistant Secretary for Educational Research and Improvement shall consult with the Director of the Office of Bilingual Edu-

cation and Minority Language Affairs to ensure there is no duplication of research activities.

Sec. 7037 Education Statistics

The Center for Education Statistics shall collect and publish information on the educational services and programs available to limited English proficient persons and the availability of qualified personnel to facilitate such services and programs. The Center for Education Statistics shall utilize the data submitted to the Department of Education by State and local educational agencies and institutions of higher education.

Part C—Training and Technical Assistance

Sec. 7041 Use of Funds

Funds available under this section shall be used for training personnel instructors; inservice and preservice teacher/personnel training; and promoting postsecondary study and participation in bilingual education. Institutions of higher education, private or nonprofit organizations, or State and local educational agencies may apply separately or jointly for grants for personnel training or similar programs under this section. Grants will be made with preference to preservice teacher/personnel training programs emphasizing linguistics, teaching English as a second language, use of a non-English language for instructional purposes, evaluation and assessment.

Sec. 7042 Multifunctional Resource Centers

The Secretary shall establish at least 16 multifunctional resource centers with consideration given to areas with relatively large numbers of individuals of limited English proficiency. The centers shall provide technical assistance, training, and information distribution.

Sec. 7043 Fellowships

The Secretary is authorized to award fellowships for advanced study of teacher training, program administration, research and evaluation, and curriculum development for bilingual education programs. No less than 500 fellowships leading to a graduate degree shall be awarded for the FY 1989.

Sec. 7044 Priority

Applications for program grants shall be given priority based on the applicants' demonstrated competence and program experience in bilingual education.

Sec. 7045 Stipends

The Secretary shall provide for the payment of program stipends in a manner consistent with prevailing practices of similar federally supported programs.

Part D—Administration

Sec. 7051 Office of Bilingual Education and Minority Language Affairs

There is established within the Department of Education an Office of Bilingual Education and Minority Language Affairs, headed by a Director. There shall be a division within the Office which will exclusively be responsible for the collection, aggregation, analysis, and publication of data and information on programs assisted under this title. The Secretary shall ensure that the Office is staffed sufficiently to discharge effectively the provisions of this title.

The Secretary shall prepare a report on the condition of bilingual education in the Nation and on the administration and operation of this title. The report shall be submitted to the Congress and the President no later than February 1, 1992. The report shall include a demonstration of the coordination and cooperation with other programs administered by the Department of Education.

TITLE VIII—DEMONSTRATION PROJECTS DESIGNED TO ADDRESS SCHOOL DROPOUT PROBLEMS AND TO STRENGTHEN BASIC SKILLS INSTRUCTION

Part A—Assistance To Address School Dropout Problems

Sec. 8001 Short Title

This part authorizes the School Dropout Demonstration Assistance Act of 1987 (SDDAA).

Sec. 8002 Purpose

The purpose of the SDDAA is to reduce the number of children who do not complete their elementary and secondary education. It authorizes grants to local educational agencies for programs to identify potential dropouts and prevent them from leaving school early, to identify students who already have dropped out and encourage them to return, to identify at-risk students in elementary and early secondary school, and to establish model systems for collecting and reporting information on dropouts.

Sec. 8003 Authorization of Appropriations

Appropriations of $50.0 million are authorized for the SDDAA for each of FY 1988 and 1989.

Sec. 8004 Grant to Local Educational Agencies

Funds appropriated for the SDDAA shall be allotted by the following four categories:

1. 45 percent to local educational agencies with 50,000 or more students;
2. 15 percent to local educational agencies with at least 20,000 but less than 50,000 students;
3. 35 percent to local educational agencies with less than 20,000 students (20 percent of these funds are for such agencies having less than 20,000 students);
4. 5 percent to community-based organizations.

In each of the first three categories, 25 percent of the funds shall be allotted to educational partnerships consisting of a local educational agency, a business organization or community-based organization, and various other public or private agencies. Provisions are specified for transferring funds that are not fully needed among uses and categories.

The Federal share of the SDDAA grants shall not exceed 90 percent of the total cost of projects during the first year nor 70 percent during the second year.

Sec. 8005 Applications

Applications must include documentation of the number and percentage of droupouts; plans for dropout information collection and reporting systems; and plans for relevant activities, coordination, and evaluation.

Priority shall be given to application showing replication or expansion of successful programs, reflecting very high numbers or percentages of dropouts, emphasizing early intervention programs, and containing provisions for parent involvement.

Sec. 8006 Authorized Activities

This section authorizes a wide variety of activities and services for which SDDAA, grants may be used, including extended day or summer basic skills programs, work-study and apprenticeship programs, identification and intervention procedures, testing services and activities, and various studies.

Sec. 8007 Distribution of Assistance; Limitation on Costs

Grants within each enrollment size category are to be equitably distributed throughout the country. Not less than 30 percent shall be used for dropout prevention activities, nor less than 30 percent for reentry activities. Not more than 10 percent may be used for administrative costs.

Sec. 8008 National School Dropout Study

The Secretary shall use not more than $500,000 of the funds appropriated for fiscal year 1989 for a national school dropout study. Among other things, the study shall examine the definition of a school dropout, develop a model information collection and reporting system, identify the characteristics of students who drop out and the reasons they do so, identify successful programs and practices, and make policy recommendations.

Part B—Assistance To Provide Basic Skills Improvement

Sec. 8101 Short Title

This section authorizes the Basic Skills Demonstration Assistance Act of 1987 (BSDAA).

Sec. 8102 Purpose

The purpose of the BSDAA is to assist local educational agencies with high concentrations of low-income children to improve the achievement of their educationally disadvantaged secondary school students.

Sec. 8103 Authorization of Appropriations

Appropriations of $200.0 million are authorized for each of FY 1988 and 1989.

Sec. 8104 Grants to Local Educational Agencies

Secondary school students eligible to participate in chapter 1 basic programs may participate in activities assisted by the BSDAA. Local educational agencies may carry out such activities in cooperation with community-based organizations.

Sec. 8105 Authorized Activities

BSDAA funds may be used for a variety of activities, including remedial education programs, reduction of scheduling problems and other attendance barriers, transition-to-work programs, guidance and counseling, training of students to serve as tutors, etc. Local educational agencies may not use more than 25 percent of the funds for noninstructional services.

Sec. 8106 Application

Applicants shall be encouraged to submit applications for 2-year periods. Among other things, applications must include descriptions of program goals, activities, and services; documentation that qualified personnel are available; assurances of parent involvement; assurances that programs will be operated in schools with the greatest need; assurances that students with the greatest need will be served (including such special populations as students with limited English proficiency or handicaps); descriptions of how private school students can participate; and descriptions of how there will be coordination with community based organizations, social services agencies, and programs conducted under the Carl D. Perkins Vocational Education Act, the Job Training Partnership Act, and other relevant acts.

Special consideration is to be given to programs that demonstrate the greatest need for assistance, are representative of urban and rural regions, and offer innovative approaches or approaches that show promise of replication and dissemination.

No more than 10 percent of a grant may be used for administrative costs.

Part C—General Provisions

Sec. 8201 General Provisions

Among other things, the Secretary shall by regulation establish a standard defintion of a school dropout no later than 60 days after the enactment of this Act. To the extent possible, grants under this title for any fiscal year shall be awarded no later than the preceding July 1. Local educational agencies must use Federal funds received under this title only to supplement funds that otherwise would be made available from non-Federal sources. The agencies must cooperate with the coordination and dissemination efforts of the National Diffusion Network and State educational agencies.

Sec. 8202 Definitions

As used in this title, the term "community-based organization" means a private nonprofit organization which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community.

TITLE IX—EDUCATIONAL ASSESSMENT AND ACHIEVEMENT

Part A—National Assessment of Educational Progress

Sec. 9001 Short Title

This part may be cited as the "National Assessment of Educational Progress Improvement Act."

Sec. 9002 Statement of Purpose

The purpose of this Act is to expand the number of educational subjects addressed by the Assessment, and to expand the Assessment to regional, State, and local areas, while ensuring the privacy of individual students and their families.

Sec. 9003 National Assessment of Educational Progress

The provisions of section 405 of the General Education Provisions Act (GEPA) related to the National Assessment of Educational Progress are rewritten. The purpose of the Assessment is to assess the performance of children and young adults. The Secretary of Education is to carry out the Assessment by grant, contract, or cooperative agreement with qualified organizations. Data must be collected by sampling techniques that are representative on a national, regional, and State basis, with reports at least every 2 years for reading and mathematics, every 4 years for writing and science, and every 6 years for history, geography, and civics.

The Secretary and the National Assessment Governing Board shall develop a uniform standard of literacy achievement, and a nationally representative sample of out-of-school 17-year-old youth and adults shall be assessed by that standard. Data collected by the Assessment must be directly relevant to the appraisal of educational performance and achievement. The public is to have access to all data, questions, and test instruments except for personally identifiable data about students, their educational performance, and their families.

A 20-member National Assessment Governing Board is established, appointed by the Secretary, to design and supervise the conduct of the Assessment. No more than 10 percent of available funds may be used for administrative expenses and expenses of the Board. Participation in national and regional assessments by State and local educational agencies must be on a voluntary basis. The Secretary shall review the Assessment periodically and report to the Congress, the President, and the Nation on findings and recommendations.

The authorization of appropriations for section 405 of GEPA (for the Office of Educational Research and Improvement) is extended through FY 1993, at a level of such sums as may be necessary for each fiscal year. In any fiscal year that the appropriation for sec-

tions 405 and 406 (for the Center for Education Statistics) of GEPA equals or exceeds the amount appropriated in FY 1986 for these sections, the amount expended for the Assessment shall not be less than $11.5 million for FY 1989, $17.7 million for FY 1990, $17.9 million for FY 1991, and $19.6 million for each of FY 1992 and FY 1993.

Part B—Fund for the Improvement and Reform of Schools and Teaching

Sec. 9301 Short Title

This part is to be cited as "Fund for the Improvement and Reform of Schools and Teaching Act."

Sec. 9302 Fund for the Improvement and Reform of Schools and Teaching

A Fund for the Improvement and Reform of Schools and Teaching is established to improve educational opportunities and performance of elementary and secondary students and teachers. The Fund will provide assistance to State and local educational agencies, higher education institutions, nonprofit organizations, individual schools, and consortia of schools. This assistance is to be used for, among other activities, helping "at risk" children meet higher educational standards; providing incentives for improved performance; promoting closer ties among school personnel, families, and the local community; improving the professional status of teachers; supporting the reallocation of resources to refocus priorities; linking local schools more closely to a higher education institution for educational improvement purposes; increasing the number and quality of minority teachers; and improving the teacher certification process, especially in areas facing serious shortages. Priority is given to projects for students or schools with below average academic performance, and for incentive systems with specific goals of educational improvement.

Sec. 9303 Applications

Each applicant shall, if relevant, describe its incentive system. Incentives are defined as including financial rewards, regulatory waivers, open enrollment, grants for innovative projects, and other rewards. Goals for such incentive systems are defined as including increased graduation rates, reduced dropout rates, increased attendance rates, increased achievement, reduced rates of delinquency or vandalism, or other goals of educational improvement. Each teacher or administrator seeking school-level assistance is to submit an application that must be reviewed by the appropriate local educational agency and State educational agency.

Sec. 9304 Special Grant Rules

Federal funds must supplement, not supplant, other resources. These funds are not intended to have a primary purpose of acquiring capital equipment. No single grantee may receive less than $5,000 or more than $125,000 in any fiscal year.

Sec. 9305 Administrative Provisions

A Fund for the Improvement and Reform of Schools and Teaching Board is to set priorities for the Fund and approve projects for funding. This section delineates, among other things, the composition of the Board, terms of office for members, appointment of a Director of the Fund, activities and duties of the Director, reporting to Congress, and procedures for reviewing and evaluating grants and contracts.

Sec. 9306 Dissemination and Reporting

The Secretary of Education is required to disseminate exemplary projects to higher education institutions and State and local educational agencies. No later than June 1, 1990, the Secretary is to report to the Congress on the programs assisted by the Fund.

Sec. 9307 Coordinations with the Fund for the Improvement of Postsecondary Education

The Director of the Fund is required to meet regularly with the Director of the Fund for Improvement of Postsecondary Education. The Boards of each fund shall meet together at least once a year.

Sec. 9308 Authorization of Appropriations

The annual authorization is $18.0 million for FY 1989; $18.9 million for FY 1990; $19.9 million for FY 1991; $21.0 million for FY 1992; and $22.0 million for FY 1993. Annually, the Secretary shall reserve $250,000 for activities under Sec. 9306.

Sec. 9309 Definitions

This section defines the following terms: "at risk," "Board," "Fund," and "Secretary."

Part C—Optional Tests for Academic Excellence

Sec. 9501 Optional Tests for Academic Excellence

After required consultation, the Secretary of Education is authorized to approve comprehensive tests of academic excellence, or to develop such a test, for the identification of outstanding students in the 11th grade in public and private secondary schools. The Secretary is authorized to conduct a program through which such tests are given, on a voluntary basis, to students; administrative costs are met by the Secretary; and certificates, signed by the Secretary, are awarded to students who score at a sufficiently high level (as determined by the Secretary) on these tests.

Sec. 9502 Availability of Funds

For carrying out this part, no less than $2.0 million is to be reserved from the funds reserved under section 405(f)(1)(D) of the General Education Provisions Act.

TITLE X—EDUCATION FOR NATIVE HAWAIIANS

Sec. 10001 Findings

It is found that the Federal Government has a special responsibility for the welfare of Native Hawaiians, that Native Hawaiians

have relatively low educational achievement and attainment, that adult Native Hawaiians are underrepresented in professions requiring high levels of education, and that Native Hawaiians experience a disproportionate number of health and social problems. As a result, special education programs for Native Hawaiians are required.

Sec. 10002 Purpose

The purpose of this program is both to provide supplemental educational services to Native Hawaiians, and to focus the attention of State, local, and Federal agencies on the educational problems of Native Hawaiians.

Sec. 10003 Native Hawaiian Model Curriculum Implementation Project

The Secretary of Education shall make grants to the State of Hawaii and the Kamehameha Schools/Bernice Pauahi Bishop Estate to support the implementation of the Kamehameha Elementary Education Program (KEEP) model curriculum in appropriate public schools. The Secretary shall ensure that the State of Hawaii has implemented the KEEP curriculum in a minimum of 20 public schools by the 1992–1993 school year. For the purposes of this section, there are appropriated $3.0 million for fiscal year 1988, and such sums as may be necessary for fiscal years 1989–1993, to remain available until expended. No more than 10 percent of these funds may be used for administrative expenses.

Sec. 10004 Native Hawaiian Family Based Education Centers

The Secretary shall make grants to Native Hawaiian organizations for a minimum of 11 family-based education centers. The centers will provide parent-infant and preschool programs, plus research and assessment activities. There are authorized to be appropriated for such centers $2.4 million for fiscal year (FY) 1988, and such sums as may be necessary for FY 1989–1993, to remain available until expended. No more than 10 percent of these funds may be used for administrative purposes.

Sec. 10005 Native Hawaiian Higher Education Demonstration Program

The Secretary of Education shall make grants to the Kamehameha Schools/Bernice Pauahi Bishop Estate to provide higher education fellowships to Native Hawaiian students. In addition to tuition and fees for students at institutions of higher education, grants could be used for counseling and support services, faculty development programs, college preparation services, and evaluation activities. There are authorized to be appropriated $1.25 million for each of fiscal years 1988–1993 for this program.

The Secretary shall also make grants to the Kamehameha Schools/Bernice Pauahi Bishop Estate for post-bachelor degree program fellowships for Native Hawaiians. The grants could be used for counseling, support, and evaluation activities, in addition to tuition and fees. There are authorized to be appropriated $.75 million for each of fiscal years 1988–1993 for this program.

For each program, appropriations are to be available until expended, and no more than 10 percent of grants may be used for administrative expenses. Student awards are to be made on the basis of academic potential and financial need.

Sec. 10006 Native Hawaiian Gifted and Talented Demonstration Program

The Secretary shall establish a Native Hawaiian Gifted and Talented Center at the University of Hawaii at Hilo. In addition, the Secretary shall make grants to, or enter into contracts with, the University plus the Kamehameha Schools/Bernice Pauahi Bishop Estate for demonstration programs to meet the special needs of gifted and talented Native Hawaiian elementary and secondary school pupils. Funds may be used for identification of pupils and their special needs, educational and developmental activities (including the use of public television for this purpose), plus dissemination, research, and evaluation activities. The Secretary is also to facilitate the creation of a network of Native Hawaiian and American Indian Gifted and Talented Centers. There are authorized to be appropriated $1.0 million for each of fiscal years 1988–1993 for this section, with such funds to remain available until expended.

Sec. 10007 Native Hawaiian Special Education Program

The Secretary of Education shall make grants to, or enter into contracts with, the State of Hawaii or Native Hawaiian organizations for special education programs for Native Hawaiians. These programs may include the identification of handicapped Native Hawaiian children, the provision of special educational services consistent with part B of the Education of the Handicapped Act, plus research and related activities. There are authorized to be appropriated for this section $1.5 million for each of fiscal years 1988–1993, with such funds to remain available until expended. No more than 10 percent of these funds may be used for administrative expenses.

Sec. 10008 Administrative Provisions

No assistance may be provided under this title unless an appropriate application has been submitted to the Secretary. Each application shall be accompaned by comments of every LEA serving pupils who will participate in the project for which assistance is being sought.

Sec. 10009 Definitions

"Native Hawaiians" are defined as persons who are United States citizens, residents of the State of Hawaii, and descendants of the aboriginal people who occupied Hawaii prior to 1778. Definitions are offered for other terms, including "Native Hawaiian Educational Organization" and "Native Hawaiian Organization."

TITLE XI—GENERAL PROVISIONS

Sec. 11001 Definitions

Except as otherwise provided, the definitions of terms in title I, chapter 1 apply to all programs authorized under this Act.

Sec. 11002 Budget Act Provision

Any new spending authority provided under this Act shall be effective only to the extent provided in appropriation acts.

Sec. 11003 Effective Date

Except as otherwise provided, this Act is effective on October 1, 1988. The amendments made by sec. 9003 shall take effect for assessments made after September 30, 1989, with respect to State data.

VII. Changes in Existing Law

In compliance with rule XXVI paragraph 12 of the Standing Rules of the Senate, the following provides a print of the statute or the part or section thereof to be amended or replaced (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic existing law in which no change is proposed is shown in roman):

EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981

Subtitle D—Elementary and Secondary Education Block Grant

Sec. 551. This subtitle may be cited as the "Education Consolidation and Improvement Act of 1981".

CHAPTER 1—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF DISADVANTAGED CHILDREN—*[REPEALED]*

* * * * * * *

CHAPTER 2—CONSOLIDATION OF FEDERAL PROGRAMS FOR ELEMENTARY AND SECONDARY EDUCATION—*[REPEALED]*

* * * * * * *

CHAPTER 3—GENERAL PROVISIONS—*[REPEALED]*

* * * * * * *

Public Law 874, 81st Congress

(Impact Aid)

TITLE I—FINANCIAL ASSISTANCE FOR LOCAL EDUCATION AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITY

Section 1. In recognition of the responsibility of the United States for the impact which certain Federal activities have on the local educational agencies in the areas in which such activities are carried on, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following sections of this title) for those local educational agencies

upon which the United States has placed financial burdens by reason for the fact that—

(1) the revenues available to such agencies from local sources have been reduced as the result of the acquisition of real property by the United States; or

(2) such agencies provide education for children residing on Federal property; or

(3) such agencies provide education for children whose parents are employed on Federal property; or

(4) there has been a sudden and substantial increase in school attendance as the result of Federal activities.

FEDERAL ACQUISITION OF REAL PROPERTY

SEC. 2. (a) Where [the Commissioner] *the Secretary,* after consultation with any local educational agency and with the appropriate State educational agency, determines for any fiscal year ending prior to [October 1, 1988] *October 1, 1993*—

(1) that the United States owns Federal property in the school district of such local educational agency, and that such property (A) has been acquired by the United States since 1938, (B) was not acquired by exchange for other Federal property in the school district which the United States owned before 1939, and (C) had an assessed value (determined as of the time or times when so acquired) aggregating 10 per centum or more of the assessed value of all real property in the school district (similarly determined as of the time or times when such Federal property was so acquired); and

(2) that such acquisition has placed a substantial and continuing financial burden on such agency; and

(3) that such agency is not being substantially compensated for the loss in revenue resulting from such acquisition by increases in revenue accruing to the agency from the carrying on of Federal activities with respect to the property so acquired,

then the local educational agency shall be entitled to receive for such fiscal year such amount as, in the judgment of [the Commissioner] *the Secretary* is equal to the continuing Federal responsibility for the additional financial burden with respect to current expenditures placed on such agency by such acquisition of property. Such amount shall not exceed the amount which, in the judgment of [the Commissioner] *the Secretary* such agency would have derived in such year, and would have had available for current expenditures, from the property acquired by the United States (such amount to be determined without regard to any improvements or other changes made in or on such property since such acquisition). *In making the determination under this section the Secretary shall apply the current levied real property tax rate for current expenditures levied by independent local educational agencies or inputed for dependent local educational agencies to the current annually determined aggregate assessed value of such acquired Federal property. For the purpose of the previous sentence the aggregate assessed value determined annually on federally acquired real property shall be not less than 95 percent of an amount determined by applying the percent of assessed value of real property acquired by the Federal*

Government to the assessed value of all real property in the local school district at the time or times of acquisition and applying this so determined percentage to the aggregate current year real property tax assessments in the local school district.".

(b) For the purposes of this section any real property with respect to which payments are being made under section 13 of the Tennessee Valley Authority Act of 1933, as amended, shall not be regarded as Federal property.

(c) Where the school district of any local educational agency shall have been formed at any time after 1938 by the consolidation of two or more former school districts, such agency may elect (at the time it files application under section 5) for any fiscal year to have (1) the eligibility of such local educational agency, and (2) the amount which such agency shall be entitled to receive, determined under this section only with respect to such of the former school districts comprising such consolidated school district as the agency shall designate in such election.

CHILDREN RESIDING ON, OR WHOSE PARENTS ARE EMPLOYED ON, FEDERAL PROPERTY

CHILDREN OR PERSONS WHO RESIDE AND WORK ON FEDERAL PROPERTY

SEC. 3. (a) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year, [the Commissioner] *the Secretary* shall determine the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools, resided on Federal property and—

(1) did so with a parent employed on Federal property situated (A) in whole or in part in the county in which the school district of such agency is located, or (B) if not in such county, in whole or in part in the same State as the school district of such agency; or

(2) had a parent who was on active duty in the uniformed services (as defined in section 101 of title 37, United States Code).

In making a determination under clause (2) of the preceding sentence with respect to a local educational agency for any fiscal year, [the Commissioner] *the Secretary* shall include the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such year, and who, while in attendance at such schools, resided on Indian lands, as described in clause (A) of section 403(1).

CHILDREN OF PERSONS WHO RESIDE OR WORK ON FEDERAL PROPERTY

(b) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year ending prior to [October 1, 1988] *October 1, 1993* [the Commissioner] *the Secretary* shall, in addition to any determination made with respect to such agency under subsection (a), determine the number of children (other than children with respect to whom a determination is made for such fiscal year under subsection (a) who

were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year and who, while in attendance at such schools, either—

(1) resided on Federal property, or

(2) resided with a parent employed on Federal property situated (A) in whole or in part in the county in which the school district of such agency is located, or in whole or in part in the school district of such agency if the school district is located in more than one county, or (B) if not in such county or district, in whole or in part in the same State as the school district of such agency, or

(3) had a parent who was on active duty in the uniformed services (as defined in section 101 of title 37, United States Code).

For such purpose, with respect to a local educational agency, in the case of any fiscal year ending prior to [October 1, 1988] *October 1, 1993* [the Commissioner] *the Secretary,* shall also determine the number of children (other than children to whom subsection (a) or the preceding sentence applies) who were in average daily attendance at the schools of such agency and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools resided with a parent who was, at any time during the three-year period immediately preceding the beginning of the fiscal year for which the determination is made, a refugee who meets the requirements of clauses (A) and (B) of section 2(b)(3) of the Migration and Refugee Assistance Act of 1962, except that [the Commissioner] *the Secretary* shall not include in his determination under this sentence of any fiscal year any child with respect to whose education a payment was made under section 2(b)(4) of such Act.

ELIGIBILITY FOR PAYMENTS

(c)(1) Except as is provided in paragraph (2), no local educational agency shall be entitled to receive a payment for any fiscal year with respect to a number of children determined under subsection (a) and subsection (b), unless the number of children so determined with respect to such agency amounts to—

(A) at least four hundred such children; or

(B) a number of such children which equals at least 3 per centum of the total number of children who were in average daily attendance, during such year, at the schools of such agency and for whom such agency provided free public education;

whichever is the lesser.

(2)(A)(i) If a local educational agency is eligible for a payment for any fiscal year by the operation of clause (B) of paragraph (1), it shall continue to be so eligible for the two succeeding fiscal years even if such agency fails to meet the requirement of such clause (B) during such succeeding fiscal years, except that the number of children determined for the second such succeeding fiscal year with respect to such agency for the purpose of any clause in paragraph (1) of subsection (d) shall not exceed 50 per centum of the number of children determined with respect to such agency for the purpose of

that clause for the last fiscal year during which such agency was so eligible.

(ii) If [the Commissioner] *the Secretary* determines with respect to any local educational agency for any fiscal year that—

(I) such agency does not meet the requirement of clause (B) of paragraph (1); and

(II) the application of such requirement, because of exceptional circumstances, would defeat the purposes of this title; [the Commissioner] *the Secretary* is authorized to waive such requirement with respect to such agency.

(B) No local educational agency shall be entitled to receive a payment for any fiscal year with respect to a number of children determined under the second sentence of subsection (b) unless the number of children so determined constitutes at least 20 per centum of the total number of children who were in average daily attendance at the schools of such agency and for whom such agency, during such fiscal year, provided free public education.

AMOUNT OF PAYMENTS

(d)(1) Except as is provided in paragraph (2), the amount to which a local educational agency shall be entitled under this section for any fiscal year shall be—

[(A) in the case of any local educational agency with respect to which the number of children determined for such fiscal year under subsection (a) amounts to at least 20 per centum of the total number of children who were to average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, an amount equal to 100 per centum of the local contribution rate multiplied by the number of children determined under such subsection plus the sum of the products obtained with respect to such agency under clauses (B)(iii), (B)(iv), (B)(v); and]

(A) in the case of any local educational agency with respect to which the number of children is determined under subsection (a) an amount equal to 100 per centum of the local contribution rate multiplied by the number of children determined under such subsection plus the product obtained with respect to such agency under subparagraph (B); and

[(B) in any other case, amount equal to the sum of—

(i) the product obtained by multiplying 100 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (2) of subsection (a),

(ii) the product obtained by multiplying 90 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (1) of subsection (a),

(iii) the product obtained by multiplying 50 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (3) of subsection (b).

(iv) the product obtained by multiplying 45 per centum of the local contribution rate by the number of children

determined with respect to such agency for such fiscal year under clauses (1) and (2)(A) of subsection (b), and (v) the product obtained by multiplying 40 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (2)(B) of subsection (b).]

(B) in any other case, an amount equal to 25 per centum of the local contribution rate multiplied by the number of children determined with respect to such agency for such fiscal year unders subsection (b).

(2)(A) (Repealed)

(B)If [the Commissioner] *the Secretary* determines that

[(i) the amount computed under paragraph (1), as is otherwise provided in this subsection with respect to any local educational agency for any fiscal year, together with the funds available to such agency from State and local sources and from other sections of this title, is less than the amount necessary to enable such agency to provide a level of education equivalent to that maintained in the school districts of the State which are generally comparable to the school district of such agency;]

(i) the amount of payment resulting from paragraph (1), as is otherwise provided in this subsection with respect to any local educational agency for any fiscal year, together with the funds available to such agency from State and local sources and from other sections of this title, determined in accordance with subparagraph (E), is less than the amount necessary to enable such agency to provide a level of education equivalent to the State average for the preceding fiscal year or to the average of that maintained during the preceding fiscal year in three or more of the school districts of the State which are generally comparable to the school district of such agency, whichever is higher, increased or decreased, as the case may be, in the same percentage as the cost of such level of education increased or decreased from the second preceding fiscal year from the prior fiscal year;

(ii) such agency is making a reasonable tax effort and exercising due diligence in availing itself of State and other financial assistance;

(iii) not less than 50 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education were, during such fiscal year, determined under either subsection (a) or subsection (b), or both; and

(iv) the eligibility of such agency under State law for State aid with respect to free public education of children residing on Federal property, and the amount of such aid, are determined on a basis no less favorable to such agency than the basis used in determining the eligibility of local educational agencies for State aid, and the amount thereof, with respect to the free public education of other children in the State;

[the Commissioner] *the Secretary* shall increase the actual payment made pursuant to the amount computed under paragraph (1) with respect to such agency *for such fiscal year to the extent necessary*

to enable such agency to provide a level of education equivalent to that maintained in such comparable school districts. *The increase computed under this subparagraph shall be sufficient to allow the school district of the local educational agency to have an operating cost (calculated in accordance with subparagraph (F)) no greater than the average of comparable school districts in the State, or if there are not comparable school districts, the State average operational costs. For the purpose of clause (ii), the Secretary shall determine that a reasonable tax effort has been made if the tax rate of the agency in the year for which the determination is made is an amount that is at least equal to 80 percent of the average tax rate for operational purposes of comparable school districts for such fiscal year. Conterminous military districts shall be deemed to meet the requirement of the previous sentence. Payments made to any agency under this subparagraph in any fiscal year shall be reduced by the percentage that the average tax rate for operational purposes of the comparable school districts, or, if none, the State average tax rate, exceeds the tax rate of such agency.*

Subject to the provisions of subsection (h) of this section [the Commission] *the Secretary* shall not, under, the preceding sentence, increase the amount computed under paragraph (1) with respect to any local educational agency for any fiscal year to an amount which exceeds the product of—

(I) the amount [the Commissioner] *the Secretary* determines to be the cost per pupil of providing a level of education maintained in such comparable school districts during such fiscal year, multiplied by—

(II) the number of children determined with respect to such agency for such year under either subsection (a) or subsection (b), or both,

minus the amount of State aid which [the Commission] *the Secretary* determines to be available with respect to such children for the fiscal year for which the computation is being made. In carrying out the provisions of this subparagraph, the Secretary shall not prorate the amounts computed under this subparagraph attributable to the number of children determined under subsection (a) or (b), or both. In carrying out the provisions of this subparagraph, the Secretary shall count the actual number of children with respect to such agency for each fiscal year under subsection (b) without regard to ther provisions of subparagraph (E) of this paragraph.

(C)(i) The amount of the entitlement of any local educational agency under this section for any fiscal year with respect to handicapped children and children with specific learning disabilities for whom a determination is made under subsection (a)(2) or (b)(3) and for whom such local educational agency is providing a program designed to meet the special educational and related needs of such children be the amount determined under paragraph (1) with respect to such children for such fiscal year multiplied by 150 per centun.

(ii) For the purposes of division (i), programs designed to meet the special educational and related needs of such children shall be consistent with criteria established under division (iii).

(iii) [The Commission] *the Secretary* shall by regulation establish criteria for assuring that programs (including preschool pro-

grams) provided by local educational agencies for children with respect to whom this subparagraph applies are of sufficient size, scope, and quality (taking into consideration the special educational needs of such children) as to give reasonable promise of substantial progress toward meeting those needs, and in the implementation of such regulations [the Commission] *the Secretary* shall consult with persons in charge of special education programs for handicapped children in the educational agency of the State in which such local educational agency is located.

(iv) For the purpose of this subparagraph the term "handicapped children" has the same meaning as specified in section 602(1) of the Education of the Handicapped Act and the term "children with specific learing disabilities" has the same meaning as specified in section 602(15) of such Act.

(D) The amount of the entitlements of any local educational agency under this section for any fiscal year with respect to children who, while in attendance at such agency, resided on Indian lands, as described in clause (A) of section 403(1), shall be the amount determined under paragraph (1) with respect to such children for such fiscal year multiplied by 125 per centun.

[(E)(i) The amount of the entitlement of any local educational agency under this section for fiscal year 1982 with respect to children determined under subsection (b) with repect to such agency shall be the amount determined under paragraph (1) with respect to such children multiplied by 66⅔ per centum.

[(ii) The amount of the entitlement of any local educational agency under this section for any of the fiscal years 1983 through 1988 with respect to children determined under subsection (b) with respect to such agency shall be the amount determined under paragraph (1) with respect to such children multiplied by 33⅓ per centum.]

(E) For the purpose of subparagraph (B)(i) of this paragraph, available funds may not include any cash balance at the end of a year allowed under State law, or, whenever no State law governing cash balance exists, may not include 30 percent of the local educational agency's operating costs.

(F) For the purpose of the second sentence of this paragraph, the Secretary shall calculate the operating cost using the most recent data available at the time of calculation, adjusted for appropriate economic factors as described in section 3(d)(2)(B)(i).

(3)(A) Except as is provided in subparagraph (B), in order to compute the local contribution rate for a local educational agency for any fiscal year, [the Commissioner] *the Secretary*, after consulting with the State educational agency of the State in which the local educational agency is located and with the local educational agency, shall determine which school districts within such State are generally comparable to the school district of the local educational agency for which the computation is being made. The local contribution rate for such agency shall be the quotient of—

(i) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, which the local educational agencies of such comparable school districts derived from local sources,

divided by—

(ii) the aggregate number of children in average daily attendance for whom such agency provided free public education during such second preceding fiscal year.

(B)(i) The local contribution rate for a local educational agency in any State shall not be less than—

(I) 50 per centum of the average per pupil expenditure in such State, or

(II) 50 per centum of such expenditures in all the States, whichever is greater, except that clause (II) shall not operate in such a manner as to make the local contribution rate for any local educational agency in any State exceed an amount equal to the average per pupil expenditure in such State.

(ii) If the current expenditures in those school districts which [the Commissioner] *the Secretary* has determined to be generally comparable to the school district of the local educational agency for which a computation is made under subparagraph (A) are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in the school district of such agency, a level of education equivalent to that maintained in such other school districts, [the Commissioner] *the Secretary* [is authorized to] *shall* increase the local contribution rate for such agency by such an amount which he determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors: *The amount of any such supplementary payment may not exceed the per pupil share (computed with regard to all children in average daily attendance), as determined by the Secretary, of the increased current expenditures necessitated by such unusual geographical factors.*

(iii) The local contribution rate for any local educational agency in—

(I) Puerto Rico, Wake Island, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands, or

(II) any State in which a substantial proportion of the land is in unorganized territory, or

(III) any State in which there is only one local education agency.

shall be determined for any fiscal year by [the Commissioner] *the Secretary* in accordance with policies and principles which will best achieve the purposes of this section and which are consistent with the policies and principles provided in this paragraph for determining local contribution rates in States where it is possible to determine generally comparable school districts.

(C) The local contribution rate for a local educational agency shall include current expenditures from that portion of a real property tax required to be levied, collected, and distributed to local educational agencies by county governments pursuant to State law where the remainder of such real property tax is transferred to the State.

(D) For the purposes of this paragraph—

(i) the term "State" does not include Puerto Rico, Wake Island, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands; and

(ii) the "average per pupil expenditure" in a State shall be (I) the aggregate current expenditures, during the second fiscal

year preceding the fiscal year for which the computation is made of all local educational agencies in the State, divided by (II) the aggregate number of children in average daily attendance for whom such agencies provide free public education during such second preceding fiscal year.

ADJUSTMENTS FOR DECREASES IN FEDERAL ACTIVITIES

(e) Whenever [the Commissioner] *the Secretary* determines that—

(1) for any fiscal year, the number of children determined with respect to any local educational agency under subsections (a) and (b) is less than 90 per centum of the number so determined with respect to such agency during the preceding fiscal year;

(2) there has been a decrease or cessation of Federal activities within the State in which such agency is located; and

(3) such decrease or cessation has resulted in a substantial decrease in the number of children determined under subsections (a) and (b) with respect to such agency for such fiscal year;

the amount to which such agency is entitled for such fiscal year and for any of the three succeeding fiscal years shall not be less than 90 per centum of the amount to which such agency was so entitled for the preceding fiscal year. That part of any entitlement of any local educational agency which is in excess of the amount which such entitlement would be without the operation of the preceding sentence shall be deemed to be attributable to determinations of children with respect to such agency under subsection (b)(2)(A).

DETERMINATIONS ON THE BASIS OF ESTIMATES

(f) Determinations with respect to a number of children by [the Commissioner] *the Secretary* under this section for any fiscal year shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate, because of an under-estimate, to deprive any local educational agency of its entitlement to any payment (or the amount thereof) under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

(g) Notwithstanding any other provisions of this Act, no State may require that a vote of the qualified electors of a heavily impacted school district of a local educational agency be held to determine if such school district will spend the amounts to which the local educational agency is entitled under this Act.

SPECIAL PROVISIONS

(h) Any local educational agency for which the boundaries of the school district of such agency are coterminous with the boundaries of a military installation and which is not eligible to receive payments under subsection (d)(2)(B) shall receive 100 percent of the amounts to which such agency is entitled under subsection (a) of the section. *For the fiscal year beginning October 1, 1987, and for each year thereafter, the local contribution rate for such cotermi-*

nous agencies shall be not less than 70 per centum of the average per pupil expenditure in all States during the second preceding year prior to the fiscal year for which the determination is made.

SUDDEN AND SUBSTANTIAL INCREASES IN ATTENDANCE INCREASES HEREAFTER OCCURRING

SEC. 4. (a) If [the Commissioner] *the Secretary* determines for any fiscal year ending prior to [October 1, 1988] *October 1, 1993.*

(1) that, as a direct result of activities of the United States (carried on either directly or through a contractor), an increase in the number of children in average daily attendance at the schools of any local educational agency has occurred in such fiscal year, which increase so resulting from activities of the United States is equal to at least 5 per centum of the difference between the number of children in average daily attendance at the schools of such during the preceding fiscal year and the number of such children whose attendance during such year resulted from activities of the United States (including children who resided on Federal property or with a parent employed on Federal property);

(2) that such activities of the United States have placed on such agency a substantial and continuing financial burden; and

(3) that such agency is making a reasonable tax effort and is exercising due diligence in availing itself of State and other financial assistance but is unable to secure sufficient funds to meet the increased educational costs involved,

then such agency shall be entitled to receive for such fiscal year an amount equal to the product of—

(A) the number of children which [The Commissioner] *the Secretary* determines to be the increase, so resulting from activities of the United States, in such year in average daily attendance; and

(B) the amount which [The Commissioner] *the Secretary* determines to be the current expenditures per child necessary to provide free public education to such additional children during such year, minus the amount which [The Commissioner] *the Secretary* determines to be available from State, local, and Federal sources for such purpose (not counting as available for such purpose either payments under this Act of funds from local sources necessary to provide free public education to other children).

For the next fiscal year (except where the determination under the proceding sentence has been made with respect to the fiscal year ending June 30, 1968) such agency shall be entitled to receive 50 per centum of such product reduced by the amount of such product which is attributable to children with respect to whom such agency is, or upon application would be, entitled to receive any payment under section 3 for such fiscal year, but not to exceed for such year the amount which [The Commissioner] *the Secretary* determines to be necessary to enable such agency, with the State, local, and other Federal funds (exclusive of funds available under title II) available to it for such purpose, to provide a level of education

equivalent to that maintained in the school districts in such State which in the judgment are generally comparable to the school district of such agency. The determinations whether an increase has occurred for purposes of clause (1) hereof and whether such increase meets the 5 per centum requirement contained in such clause, for any fiscal year, shall be made on the basis of estimates by [The Commissioner] *the Secretary* made prior to the close of such year, except that an underestimate made by [The Commissioner] *the Secretary* pursuant to the foregoing provisions of this sentence shall not operate to deprive an agency of its entitlements to any payments under this section to which it would be entitled had the estimate been accurate. The determination under clause (B) shall be made by [The Commissioner] *the Secretary* after considering the current expenditures per child in providing free public education in those school districts in the State which, in the judgement of [The Commissioner] *the Secretary* are generally comparable to the school district of the local enducational agency for which the computation is being made.

INCREASES HERETOFORE OCCURRING

(c) (Subsection 4(b) has been executed.)

COUNTING OF CERTAIN CHILDREN

(c) In determining under subsection (a) whether there has been an increase in attendance in any fiscal year directly resulting from activities of the United States and the number of children with respect to whom payment is to be made for any fiscal year, [the Commissioner] *the Secretary* shall not count—

(A) children with respect to whom a local educational agency is, or upon application would be, entitled to receive any payment under section 3 for such fiscal year: *Provided*, That [the Commissioner] *the Secretary* shall count for such purposes as an increase directly resulting from activities of the United States, an increase in the number of children who reside on Federal property or reside with a parent employed on Federal property, if the local educational agency files, in accordance with regulations of [the Commissioner] *the Secretary*, its election that such increase be counted for such purposes instead of for the purposes of section 3; and

(B) children whose attendance is attributable to activities of the United States carried on in connection with real property which has been excluded from the definition of Federal property by the last sentence of paragraph (1) of section 403.

ADJUSTMENT FOR CERTAIN DECREASES IN FEDERAL ACTIVITIES

(d) Whenever [the Commissioner] *the Secretary* determines that—

(1) a local educational agency has made preparations to provide during a fiscal year free public education for a certain number of children to whom subsection (a) applies;

(2) such preparations were in his judgment reasonable in the light of the information available to such agency at the time such preparations were made; and

(3) such number has been substantially reduced by reason of a decrease in or cessation of Federal activities or by reason of a failure of any such activities to occur.

the amount to which such agency is otherwise entitled under this section for such year shall be increased to the amount to which, in the judgment of [the Commissioner] *the Secretary* such agency would have been entitled but for such decrease in or cessation of Federal activities or the failure of such activities to occur, minus any reduction in current expenditures for such year which [the Commissioner] *the Secretary* determines that such agency has affected, or reasonably should have effected, by reason of such decrease in or cessation of Federal activities or the failure of such activities to occur.

CONSULTATION WITH STATE AND LOCAL AUTHORITIES

(e) All determinations of [the Commissioner] *the Secretary* under this section shall be made only after consultation with the State educational agency and the local educational agency.

SPECIAL PROGRAM

SEC. 4A. [Repealed August 3, 1981, P.L. 97-35, sec. 542(1), 95 Stat. 458.]

METHOD OF MAKING PAYMENTS

APPLICATION

SEC. 5. (a) Any local educational agency desiring to receive the payments to which it is entitled for any fiscal year under sections 2, 3, or 4 shall submit an application therefor through the State educational agency of the State in which such agency is located to [the Commissioner] *the Secretary*. Such applications shall be submitted at such time, in such form, and containing such information as [the Commissioner] *the Secretary* may reasonably require to determine whether such agency is entitled to a payment under any of such sections and the amount of such payment.

PAYMENTS BY THE COMMISSIONER

(b)(1) [the Commissioner] *the Secretary* shall pay to each local educational agency, *rounded to the nearest whole dollar,* making application pursuant to subsection (a), the amount to which it is entitled under sections 2, 3, or 4. Sums appropriated, for any fiscal year, to enable [the Commissioner] *the Secretary* to make payments pursuant to this title shall, notwithstanding any other provision of law unless enacted in express limitation of this subsection, remain available for obligation and payments with respect to amounts due local educational agencies under this title for such fiscal year, until the end of the fiscal year succeeding the fiscal year for which such sums are appropriated. *The Secretary shall return to the United States Treasury any funds appropriated for payments under this title for fiscal year 1988 and thereafter that, as the result of overpayments or unallowable expenditures, are recovered by the Department of Education after the end of the fifth fiscal year following the end of the fiscal year for which the sums were*

appropriated, or that remain in Department of Education accounts after that time.

[(2) Not later than thirty days after the beginning of any fiscal year the Commissioner shall, on the basis of any application for preliminary payment from any local educational agency which was eligible for a payment during the preceding fiscal year on the basis of entitlements established under section 2 or 3, make such a payment to such agency of not less than 75 per centum of the amount that such agency received during such preceding fiscal year.]

(2) As soon as possible after the beginning of any fiscal year, the Secretary shall, on the basis of a written request for a preliminary payment from any local educational agency that was eligible for a payment for the preceding fiscal year on the basis of entitlements established under section 2 or 3, make such a preliminary payment—

(A) to any agency for whom the number of children determined under section 3(a) amounts to at least 20 per centum of such agency's total average daily attendance, of 75 per centum of the amount that such agency received for such preceding fiscal year on the basis of such entitlements; and

(B) to any other agency, of 50 per centum of the amount that such agency received for such preceding fiscal year on the basis of such entitlements.

(3) (A) Payments of entitlements under section 3(d)(2)(D) of this Act shall be made only to local educational agencies which have, within one year of the date of enactment of this pargraph, or when local educational agencies are formed after such date of enactment, within one year of their formation, established such policies and procedures with respect to information received from Indian parents and tribes as required by this paragraph and which have made assurances to [the Commissioner] *the Secretary*, at such time and in such manner as shall be determined by regulation, that such policies and procedures have been established. [The Commissioner] *The Secretary* shall have the authority to waive this one-year limit for good cause, and in writing to the tribes to be affected.

(B) Each local educational agency shall establish such policies and procedures as are necessary to insure that—

(i) Indian children claimed under section 3(a) participate on an equal basis in the school program with all other children educated by the local educational agency;

(ii) applications, evaluations, and program plans are adequately disseminated to the tribes and parents of Indian children claimed under section 3(a); and

(iii) tribes and parents of Indian children claimed under section 3(a) are.

(I) affored an opportunity to present their views with respect to the application, including the opportunity to make recommendations concerning the needs of their children and the ways by which they can assist their children in realizing the benefits to be derived from the educational programs assisted under this paragraph;

(II) actively consulted and involved in the planning and development of programs assisted under this paragraph; and

(III) afforded a general opportunity to present their overall views on the educational program, including the operation of such programs, and the degree of parent participation allowed.

(C)(i) Any tribe, or its designee, which has students in attendance at a local educational agency may, in its discretion and without regard to the requirements of any other provision of law, file a written complaint with [the Commission] *the Secretary* regarding any action of a local educational agency taken pursuant to, or relevant to, the requirements of subparagraph (B) of this paragraph.

(ii) Within ten working days from receipt of the complaint, [the Commissioner] *the Secretary* shall—

(I) designate a time and place for a hearing into the matters relating to the complaint at a location in close proximity to the local educational agency involved, or, if [the Commissioner] *the Secretary* determines there is good cause, at some other location convenient to both the tribe, or its designee, and the local educational agency;

(II) designate a hearing examiner to conduct the hearing; and

(III) notify the affected tribe or tribes and the local educational agency involved of the time, place, and nature of the hearing and send copies of the complaint to the local educational agency and the affected tribe or tribes.

(iii) The hearing shall be held within thirty days of the designation of a hearing examiner and shall be open to the public. A record of the procedures shall be established and maintained.

(iv) The complaining tribe, or its designee, and the local educational agency shall be entitled to present evidence on matters relevant to the complaint and to make recommendations concerning the appropriate remedial actions. Each party to the hearing shall bear only its own costs in the proceeding.

(v) Within thirty days of the completion of the hearing, the hearing examiner shall, on the basis of the record, make written findings of fact and recommendations concerning appropriate remedial actions (if any) which should be taken. The hearing examiner's findings and recommendations, along with the hearing record, shall be forwarded to [The Commissioner.] *The Secretary*.

(vi) Within thirty days of his receipt of the findings, recommendations, and record, [the Commissioner] *the Secretary* shall on the basis of the record, make a written determination of the appropriate remedial action, if any, to be taken by the local educational agency, the schedule for completion of the remedial action, and the reasons for his decision.

(vii) Upon completion of his final determination, [the Commissioner] *the Secretary* shall provide the complaining tribe, or its designee, and the local educational agency with copies of the hearing record, the hearing examiner's findings and recommendations, and the [the Commissioner's] *the Secretary's* final determination. The final determination of [the Commissioner] *the Secretary* shall be subject to judicial review.

(viii) In all actions under this subparagraph, [the Commissioner] *the Secretary* shall have discretion to consolidate complaints involving the same tribe or local educational agency.

(D) If the local educational agency rejects the determination of the Commissioner, or if the remedy required is not undertaken within the time established and [the Commissioner] *the Secretary* determines that an extension of the time established will not effectively encourage the remedy required, [the Commissioner] *the Secretary* shall withhold payment of all moneys to which such local agency is entitled under section 3(2)(D) until such time as the remedy required is undertaken, except where the complaining tribe or its designee formally requests that such funds be released to the local educational agency: *Provided*, That [the Commissioner] *the Secretary* may not withhold such moneys during the course of the school year if he determines that it would substantially disrupt the educational programs of the local educational agency.

(E) If the local educational agency rejects the determination of [the Commissioner] *the Secretary* and a tribe exercises the option under section 1101(d) of the Education Amendments of 1978, to have education services provided either directly by the Bureau of Indian Affairs or by contract with that Agency, and Indian students affiliated with that tribe who wish to remain in attendance at the local educational agency against whom the complaint which led to the tribal action (under such subsection (d)) was lodged may be counted with respect to that local educational agency for the purposes of receiving funds under section 3(d)(2)(D) of this Act. In such event, funds under such section shall not be withheld pursuant to subparagraph (D) and no further complaints with respect to such students may be filed under subparagraph (C)(i).

(F) This paragraph is based upon the special relationship between the Indian nations and the United States and nothing in it shall be deemed to relieve any State of any duty with respect to any citizens of that State.

ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

(c) If the sums appropriated for any fiscal year for making payments on the basis of entitlements established under sections 2, 3 and 4 for that year are not sufficient to pay in full the total amounts which [the Commissioner] *the Secretary* estimates all local educational agencies are entitled to receive under such sections for such year, [the Commissioner] *the Secretary* shall allocate such sums among local educational agenices and make payments to such agenices as follows:

[(1) He shall first allocate to each local educational agency which is entitled to a payment under section 2 an amount equal to 100 per centum of that amount to which it is entitled as computed under that section for such fiscal year and he shall further allocate to each local educational agency which is entitled to a payment under section 3 an amount equal to 25 per centum of the amount to which it is entitled as computed under section 3(d) for such fiscal year]

(1)(A) The Secretary shall first allocate to each local educational agency which is entitled to a payment under section 2

an amount equal to 100 per centum of the amount to which it is entitled as computed under that section for such fiscal year and to each local educational agency an amount equal to 100 per centum of the entitlement for each child eligible under section 3(d)(2)(C) served by such agency.

(B) The Secretary shall then allocate to any local educational agency which is eligible under section 3(d)(2)(B) an amount equal to 100 per centum of the amount to which such agency is entitled under sections 3(a) and 3(b).

(C) The Secretary shall reserve from the remainder of the sums appropriated for this Act (other than amounts needed for section 7) for such fiscal year—

(i) 80 per centum for the purpose of allocating sums under paragraph (2) for entitlements determined under section 3(a); and

(ii) 20 per centum for the purpose of allocating sums under paragraph (3) for entitlements determined under section 3(b).

[(2)(A) From that part of such sums which remains after the allocation required by paragraph (1) for any fiscal year, he shall allocate an additional amount equal to 65 per centum of the amounts described in the following schedule:

[(i) To each local educational agency—

[(I) with respect to which the local contribution rate has been increased under paragraph (2)(B) of section 3(d), which equals 75 per centum of the amount to which such agency is entitled as computed under section 3(d) for such fiscal year; and

[(II) described in clause (A) of section 3(d)(1) which equals 75 per centum of the amount to which such agency is entitled, as computed under section 3(d), with respect to a determination of number of children under section 3(a) and section 3(b)(3) of such fiscal year,[2]

[(ii) to each local educational agency which provides free public education for children who reside on Indian land, as described in clause (A) of section 403(1), which equals 75 per centum of the amount of which such agency is entitled under section 3(d)(2)(D);

[(iii) to each local educational agency with respect to which a number of children is determined under clause (2) of section 3(a) which equals 65 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year;

[(iv) to each local educational agency with respect to which a number of children is determined under clause (1) of section 3(a) which equals 63 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year;

[(v) to each local educational agency with respect to which a number of children is determined under clause (3) of section 3(b) (other than such children with respect to

whom a payment is made under clause (i)(II) of this paragraph) which equals 35 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year;

[(vi) to each local educational agency with respect to which a number of children is determined under clause (1) and clause (2)(A) of section 3(b) which equals 32 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d) for such fiscal year.

[(vii) to each local educational agency with respect to which a number of children is determined under clause (2)(B) of section 3(b) which equals 28 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year.

[(B) From that part of the sums which remains after the allocation required by paragraph (1) and by subparagraph (A) of this paragraph for any fiscal year, he shall, in accordance with the requirements of subsection (e), allocate an amount not to exceed 35 per centum of the amounts described in the schedule set forth in subparagrpah (A).]

(2)(A) For the purpose of allocating sums available for section 3(a) for any fiscal year which remain after the allocation required by paragraph (1) and any allocation required by sections 5(e) and 3(h) for such fiscal year, the Secretary shall determine the category to which a local educational agency belongs as follows:

(i) Each local educational agency in which the number of children determined under section 3(a) amounts to at least 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (i).

(ii) Each local educational agency in which the number of children determined under section 3(a) amounts to at least 15 per centum, but less than 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (ii).

(iii) Each local educational agency in which the number of children determined under section 3(a) amounts to less than 15 per centum of the total number of children who were in avarage daily attendance in the schools of such agency is in category (iii).

(B) The Secretary shall allocate the amounts described in subparagraph (A) according to the following schedule:

(i) A first allocation shall be made as follows:

(I) 80 per centum of entitlement to local educational agencies described in category (i);

(II) 60 per centum of entitlement to local educational agencies described in category (ii); and

(III) 40 per centum of entitlement to local educational agencies described in category (iii).

(ii) Any sums remaining after the allocation pursuant to clause (i) shall be allocated as follows:

(I) 20 per centum of entitlement to local educational agencies described in category (i);

(II) 15 per centum of entitlement to local educational agencies described in category (ii); and

(III) 10 per centum of entitlement to local educational agencies described in category (iii).

(iii) Any sums remaining after the allocation pursuant to clause (ii) shall be allocated as follows:

(I) 25 per centum of entitlement to local educational agencies described in category (ii); and

(II) 50 per centum of entitlement to local educational agencies described in category (iii).

(3)(A) For the purpose of allocating sums available for section 3(b) for any fiscal year which remain after the allocation required by paragraph (1) and any allocation required by sections 5(e) and 3(h) for such fiscal year, the Secretary shall determine the category to which a local educational agency belongs as follows:

(i) Each local educational agency in which the number of children determined under section 3(b) amounts to at least 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (i).

(ii) Each local educational agency in which the number of children determined under section 3(b) amounts to less than 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (ii).

(B) The Secretary shall allocate the amounts described in subparagraph (A) according to the following schedule:

(i) A first allocation shall be made as follows:

(I) 20 per centum of entitlement to local educational agencies described in category (i); and

(II) 10 per centum of entitlement to local educational agencies described in category (ii).

(ii) Any sums remaining after the allocation pursuant to clause (i) shall be allocated as follows:

(I) 30 per centum of entitlement to local educational agencies described in category (i); and

(II) 5 per centum of entitlement to local educational agencies described in category (ii).

(iii) Any sums remaining after the allocation pursuant to clause (ii) shall be allocated as follows:

(I) 50 per centum of entitlement to local educational agencies described in category (i); and

(II) 85 per centum of entitlement to local educational agencies described in category (ii).

(4)(A) Whenever the additional amounts described in paragraphs (2)(A) and (3)(A) in each fiscal year are insufficient to provide the required percent of entitlement under clause (ii) or (iii) of paragraph (2)(B), or clause (ii) or (iii) of paragraph (3)(B), respectively, the Secretary shall allocate such additional

amounts according to the following schedule for each such clause:

(i) 72 per centum under clause (ii)(I) of paragraph (2)(B), 3 per centum under clause (ii)(II) of paragraph (2)(B), and 25 per centum under clause (ii)(III) of paragraph (2)(B), of the amount which the Secretary determines is available for clause (ii) of paragraph (2)(B);

(ii) 75 per centum under clause (iii)(I) of paragraph (2)(B), and 25 per centum under clause (iii)(II) of paragraph (2)(B) of the amount which the Secretary determines is available for clause (iii) of paragraph (2)(B);

(iii) 75 per centum under clause (ii)(I) of paragraph (3)(B), and 25 per centum under clause (ii)(II) of paragraph (3)(B) of the amount which the Secretary determines is available for clause (ii) of paragraph (3)(B); and

(iv) 75 per centum under clause (iii)(I) of paragraph (3)(B), and 25 per centum under clause (iii)(II) of paragraph (3)(B) of the amount which the Secretary determines is available for clause (iii) of paragraph (3)(B).

(B) For the purpose of subparagraph (A), the amount available in each fiscal year for each clause is the amount which bears the same ratio to the amount available in that fiscal year for subparagraph (A) for paragraph (2)(B) or paragraph (3)(B), as the case may be, as the full entitlement for each such clause bears to the full entitlement under paragraph (2) or (3), as the case may be.

SEC. 5(c)(3)—[Repealed]

* * * * * * *

No allocation may be made pursuant to paragraph (2) or (3) and no payment may be paid on the basis of any such allocation unless allocations are made pursuant to paragraph (1) and payments are made on the basis of such allocations.

* * * * * * *

TREATMENT OF PAYMENTS BY THE STATES IN DETERMINING ELIGIBILITY FOR, AND THE AMOUNT OF, STATE AID

(d)(1) Except as provided in paragraph (2), no payments may be made under this title for any fiscal year to any local educational agency in any State (A) if that State has taken into consideration payments under this title in determining—

(i) the eligibility of any local educational agency in that State for State aid for free public education of children; or

(ii) the amount of such aid with respect to any such agency; during that fiscal year, or the preceding fiscal year or (B) if such State makes such aid available to local educational agencies in such a manner as to result in less State aid to any local educational agency which is eligible for payments under this title than such agency would receive if such agency were not so eligible.

(2)(A) Notwithstanding paragraph (1) of this subsection, if a State has in effect a program of State aid for free public education for any fiscal year, which is designed to equalize expenditures for free public education among the local educational agencies of that

State, payments under this title for any fiscal year may be taken into consideration by such State in determining the relative—

(i) financial resources available to local educational agencies in that State; and

(ii) financial need of such agencies for the provision of free public education for children served by such agency, provided that a State may consider as local resources funds received under this title only in proportion to the share that local revenues covered under a State equalization program are of total local revenues *and only if the formula used by the State ensures that the local educational agency will have sufficient funds available to that agency to equal or exceed the average per pupil expenditure for the State or the average per pupil expenditure for comparable districts, whichever is greater.*

The amount received under section 2, and the increase in payments described in sections 3(d)(2)(B), 3(d)(2)(C), 3(d)(2)(D), and 3(d)(3)(B)(ii) shall not be taken into consideration by the State for the purpose of this subparagraph.

Whenever a State educational agency or local educational agency will be adversely affected by the operation of this subsection, such agency shall be afforded notice and an opportunity for a hearing prior to the reduction or termination of payments pursuant to this subsection.

(B) The terms "State aid" and "equalize expenditures" as used in this subsection shall be defined by [the Commissioner] *the Secretary* by regulation, after consultation with State and local educational agencies affected by this subsection, provided that the term 'equalize expenditures' shall not be construed in any manner adverse to a program of State aid for free public education which provides for taking into consideration the additional cost of providing free public education for particular groups or categories of pupils in meeting the special educational needs of such children as handicapped children, economically disadvantaged, those who need bilingual education, and gifted and talented children.

(C) (i) If a State desires to take payments under this section into consideration as provided in this paragraph for any fiscal year, that State shall, not later than sixty days prior to the beginning of such fiscal year, submit notice to [the Commissioner] *the Secretary* of its intention to do so. Such notice shall be in such form and be accompanied by such information as to enable [the Commissioner] *the Secretary* to determine the extent to which the program of State aid of that State is consistent with the provisions of subparagraph (A). In addition, such notice shall be accompanied by such evidence as [the Commissioner] *the Secretary* finds necessary that each local educational agency in that State has been given notice of the intention of the State. If [the Commissioner] *the Secretary* determines that the program of State aid of a State submitting notice under this subparagraph is consistent with the provisions of subparagraph (A), [the Commissioner] *the Secretary* shall certify such determination to that State.

(ii) Prior to certifying and determination under division (i) for any State for any fiscal year, [the Commissioner] *the Secretary* shall give the local educational agencies in that State an opportunity for a hearing at which such agencies may present their views

with respect to the consistency of the State aid program of that State with the provisions of subparagraph (A).

(iii) [The Commissioner] *the Secretary* shall not finally deny to any State for any fiscal year certification of a determination under division (i) without first giving that State an opportunity for a hearing.

HOLD HARMLESS; DISCRETIONARY ALLOCATIONS

[(e) (1) In carrying out the required allocations under paragraph (2) of subsection (c), if any amount remains after making allocations under paragraph (2)(A) of such subsection, the Commissioner shall allocate, from the amounts available under paragraph (2)(B) of such subsection, to each local educational agency described in the schedule in such paragraph (2)(A) an amount which shall not be less than 90 per centum of the amount paid to such agency under this section for the preceding fiscal year. If sums appropriated for any fiscal year for making payments under this section are not sufficient to pay in full the amount to which each local educational agency is entitled under the previous sentence, such amounts shall be ratably reduced.

[(2) Any sums which remain from the amounts available under paragraph (2)(B) of subsection (c) after making payments required by the first sentence of paragraph (1) of this subsection shall be allocated by the Commissioner among local educational agencies which have unsatisfied entitlements under sections 3 and 4 in accordance with appropriations Acts.]

(e)(1)(A) For any fiscal year after September 30, 1987, the Secretary shall allocate to any local educational agency which received a payment under section 3(a) in fiscal year 1987, an amount which is not less than the product of 100 per centum of the per pupil amount paid to such agency in fiscal year 1987 and the number of such children in average daily attendance for the fiscal year for which the determination is made under such subsection.

(B) For any fiscal year beginning after September 30, 1987, the Secretary shall allocate to any local educational agency which received a payment under section 3(b) in fiscal year 1987 for children described in section 5(c)(3)(A)(i), an amount which is not less than the product of 100 per centum of the per pupil amount paid to such agency in fiscal year 1987 and the number of such children in average daily attendance in the fiscal year for which such determination is made.

(C) The provisions of subparagraphs (A) and (B) of this paragraph shall not apply to any local educational for which the factor in the determination of the local contribution rate described in section 3(d)(3)(A)(i) in the year for which the determination is made is less than the amount for such factor for fiscal year 1987.

(D) The Secretary is authorized to modify the per pupil amount described in subparagraph (A) of this paragraph, in any case in which, in the fiscal year for which the determination is made a local educational agency is no longer an agency described in section 5(c)(2)(A)(i), or section 5(c)(2)(A)(ii), but is an agency described in section 5(c)(2)(A)(ii) or section 5(c)(2)(A)(iii), as the case may be.

(E) The provisions of subparagraph (B) of this paragraph shall not apply to any local educational agency which, in the fiscal year for which the determination is made, is not a local educational agency described in section 5(c)(3)(A)(i).

(2) If sums appropriated for any fiscal year for making payments under this section are not sufficient to pay in full the amount to which each local educational agency is entitled under the previous sentence, such amounts shall be ratably reduced.

USE OF FUNDS PAID WITH RESPECT TO ENTITLEMENTS INCREASED UNDER SECTION 3(d)(2)(C)

(f) The amount of the payment to any local educational agency for any fiscal year which is attributable to a determination of children for increased payments under subparagraph (C) of section 3(d)(2) shall be used by such agency for special educational programs designed to meet the special educational needs of children with respect to whom such determination is made.

(C) In the application of subparagraph (A) of this paragraph to any State having a program described in such subparagraph (A) in effect on the date of the enactment of the Education Amendments of 1976, no payment may be withheld from and no repayment may be required of any State or local educational agency for any period prior to promulgation of final regulations, or, if the State is not in conformance with such regulations, until July 1, 1977.

(g) Each local educational agency which is adversely affected or aggrieved by any action of [the Commissioner] *the Secretary* under this title shall be entitled to a hearing on, and review of, such action in the same manner as if such agency were a person under the provisions of chapters 5 and 7 of title 5, United States Code.

(h) If any legislation enacted after March 31, 1983, affects the determination of amounts of payments made on the basis of entitlements established under sections 2, 3, and 4 by placing any additional restriction on payments based on the concentration of children counted under subsection (a) or (b) of section 3 in the schools of a local educational agency, such restriction shall be applied, in the case of any State (other than a territory or possession of the United States) within which there is only one local educational agency, by treating each administrative school district within such State as a local educational agency (solely for the purpose of computing the amount of such payments). Treating such an administrative school district as a local educational agency under the preceding sentence shall not result, during fiscal year 1984, 1985, or 1986, in an increase of more than 10 per centum in the amount of funds paid to such State above the amount which would otherwise by paid to such State for such fiscal year.

CHILDREN FOR WHOM LOCAL AGENCIES ARE UNABLE TO PROVIDE EDUCATION

SEC. 6. (a) In the case of children who reside on Federal property—

(1) if no tax revenues of the State or any political subdivision thereof may be expended for the free public education of such children; or

(2) if it is the judgment of [the Commissioner] *the Secretary* after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children,

[the Commissioner] *the Secretary* shall make such arrangements (other that arrangements with respect to the acquisition of land, the erection of facilities, interest, or debt service) as may be necessary to provide free public education for such children. Such arrangements to provide free public education may also be made for childen of members of the Armed Forces on active duty, if the schools in which free public education is usually provided for such children are made unavailable to them as a result of official action by State or local governmental authority and it is the judgment of [the Commissioner] *the Secretary* after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free pubic education for such children. To the maximum extent practicable, the local educational agency, or the head of the Federal department or agency, with which any arrangement is made under this section shall take such action as may be necessary to insure that the education provided pursuant to such arrangement is comparable to free public education provided for children in comparable communities in the State, or, in the case of education provided under this section outside the continental United States, Alaska, and Hawaii, comparable to free public education provided for children in the District of Columbia. For the purpose of providing such comparable education, personnel may be employed and the compensation, tenure, leave, hours of work, and other incidents of the employment relationship may be fixed without regard to the Civil Service Act and rules (5 U.S.C. 631 et seq.) and the following: (1) the Classification Act of 1949, as amended (5 U.S.C. 1071 et seq.); (2) the Annual and Sick Leave Act of 1951, as amended (5 U.S.C. 2061 et seq.); (3) the Federal Employees' Pay Act of 1945, as amended (5 U.S.C. 901 et seq.); (4) the Veterans' Preference Act of 1944, as amended (5 U.S.C. 851 et seq.); and (5) the Performance Rating Act of 1950, as amended (5 U.S.C. 2001 et seq.). Personnel provided for under this subsection outside of the continental United States, Alaska, and Hawaii, shall receive such compensation, tenure, leave, hours of work, and other incidents of employment on the same basis as provided for similar positions in the public schools of the District of Columbia. In any case where education was being provided on January 1, 1955, or thereafter under an arrangement made under this subsection for children residing on an Army, Navy (including the Marine Corps), or Air Force installation, it shall be presumed, for the purposes of this subsection, that no local educational agency is able to provide suitable free public education for the children residing on such installation, until [the Commissioner] *the Secretary* and the Secretary of the military department concerned jointly determine, after consultation with the appropriate State educational agency, that a local educational agency is able to do so.

(b) In any case in which [the Commissioner] *the Secretary* makes such arrangements for the provision of free public education in facilities situated on Federal property, he may also make arrangements for providing free public education in such facilities for children residing in any area adjacent to such property with a parent who, during some portion of the fiscal year in which such education is provided, was employed on such property, but only if [the Commissioner] *the Secretary* determines after consultation with the appropriate State educational agency (1) that the provision of such education is appropriate to carry out the purposes of this title, (2) that no local educational agency is able to provide suitable free public education for such children, and (3) in any case where in the judgment of [the Commissioner] *the Secretary* the need for the provision of such education will not be temporary in duration, that the local educational agency of the school district in which such children reside, or the State educational agency, or both, will make reasonable tuition payments to [the Commissioner] *the Secretary* for the education of such children. Such payments may be made either directly or through deductions from amounts to which the local educational agency is entitled under this title, or both, as may be agreed upon between such agency and [the Commissioner] *the Secretary*. Any amounts paid to [the Commissioner] *the Secretary* by a State or local educational agency pursuant to this section shall be covered into the Treasury as miscellaneous receipts.

(c) In any case in which [the Commissioner] *the Secretary* makes arrangements under this section for the provision of free public education in facilities situated on Federal property in Puerto Rico, Wake Island, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands, he may also make arrangements for providing free public education in such facilities for children residing with a parent employed by the United States, in a grade, position, or classification subject by policy and practice to transfer or reassignment to areas where English is the language of instruction in the schools normally attended by children of Federal employees. Dependents of excepted service professional employees of the schools shall be eligible to attend the schools. In any case where education is being provided under an arrangement made under this subsection, it shall be presumed that no local educational agency is able to provide suitable free public education for the children of eligible parents employed by the United States until [the Commissioner] *the Secretary* determines, after consultation with the appropriate State educational agency, that a local educational agency is able to do so.

(d) [The Commissioner] *The Secretary* may make an arrangement under this section only with a local educational agency or with the head of a Federal department or agency administering Federal property on which children reside who are to be provided education pursuant to such arrangement or, in the case of children to whom the second sentence of subsection (a) applies, with the head of any Federal department or agency having jurisdiction over the parents of some or all of such children. Except where [the Commissioner] *the Secretary* makes arrangements pursuant to the second sentence of subsection (a), arrangements may be made

under this section only for the provision of education in facilities of a local educational agency or in facilities situated on Federal property. [The Commissioner] *The Secretary* shall ensure that funds provided under such arrangement or arrangements are expended in an efficient manner, and shall require an accounting of funds by such agency at least on an annual basis. [The Commissioner] *The Secretary* shall further be provided with data relating to the quality and type of education provided to such children under such arrangement or arrangements.

(e) To the maximum extent practicable, [the Commissioner] *the Secretary* shall limit the total payments made pursuant to any such arrangement for educating children within the continental United States, Alaska, or Hawaii, to an amount per pupil which will not exceed the per pupil cost of free public education provided for children in comparable communities in the State. [The Commissioner] *The Secretary* shall limit the total payments made pursuant to any arrangement for educating children outside the continental United States, Alaska, or Hawaii, to an amount per pupil which will not exceed the amount he determines to be necessary to provide education comparable to the free public education provided for children in the District of Columbia.

(f) If no tax revenues of a State or of any political subdivision of the State may be expended for the free public education of children who reside on any Federal property within the State, or if no tax revenues of a State are allocated for the free public education of such children, then the property on which such children reside shall not be considered Federal property for the purposes of sections 3 and 4 of this Act. If a local educational agency refuses for any other reason to provide in any fiscal year free public education for children who reside on Federal property which is within the school district of that agency or which, in the determination of [the Commissioner] *the Secretary*, would be within that school district if it were not Federal property, there shall be deducted from any amount to which the local educational agency is otherwise entitled for that year under section 3 or 4 an amount equal to (1) the amount (if any) by which the cost to [the Commissioner] *the Secretary* of providing free public education for that year for each such child exceeds the local contribution rate of that agency for that year, multiplied by (2) the number of such children.

(g) [The Commissioner] *The Secretary* shall ensure the establishment of an elective school board in schools assisted under this section. Such school board shall be composed of a minimum of three members, elected by the parents of students in attendance at such school. [The Commissioner] *The Secretary* shall, by regulation, establish procedures for carrying out such school board elections as provided in this subsection.

(h) A school board established pursuant to subsection (g) shall be empowered to oversee school expenditures and operations, subject to audit procedures established by [the Commissioner] *the Secretary*, and other provisions of this section.

(i) Notwithstanding any other provision of law, a local educational agency receiving funds under section 3 may also receive funds under section 6.

ASSISTANCE FOR CURRENT SCHOOL EXPENDITURES IN CASES OF CERTAIN DISASTERS

SEC. 7. (a) In any case in which—

(1)[A] the Director of the Office of Emergency Planning determines with respect to any local educational agency (including for the purpose of this section any other public agency which operates schools providing technical, vocational, or other special education to children of elementary or secondary school age) that such agency is located in whole or in part within an area which after August 30, 1965, and prior to [October 1, 1988] *October 1, 1993*, has suffered a major disaster as the result of any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe which, in the determination of the President pursuant to section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a)), is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government [or] *and*

[B the Commissioner determines with respect to any such agency that public elementary or secondary school facilities of such agency have been destroyed or seriously damaged prior to October 1, 1988, as a result of flood, hurricane, earthquake, storm, fire, or other catastrophe, except any such catastrophe caused by negligence or malicious action; and]

(2) the Governor of the State in which such agency is located has certified the need for disaster assistance under this section, and has given assurance of expenditure of a reasonable amount of the funds of the government of such State, or of any political subdivision thereof, for the same or similar purposes with respect to such catastrophe;

and if [the Commissioner] *the Secretary* determines with respect to such agency that—

(3) such agency is utilizing or will utilize all State and other financial assistance available to it for the purpose of meeting the cost of providing free public education for the children attending the schools of such agency, but as a result of such disaster it is unable to obtain sufficient funds for such purpose and requires an amount of additional assistance equal to at least [$1,000 or one-half of 1 per centum] *$10,000 or 5 per centum* of such agency's current operating expenditures during the fiscal year preceding the one in which such disaster occurred, whichever is less, and

(4) in the case of any such major disaster to the extent that the operation of private elementary and secondary schools in the school attendance area of such local educational agency has been disrupted or impaired by such disaster, such local educational agency has made provisions for the conduct of educational programs under public auspices and administration in which children enrolled in such private elementary and secondary schools may attend and participate: *Provided,* That nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction,

[the Commissioner] *the Secretary* may provide to such agency the additional assistance necessary to provide free public education to the children attending the schools of such agency, upon such terms and in such amounts (subject to the provisions of this section) as [the Commissioner] *the Secretary* may consider to be in the public interest. Such additional assistance may be provided for a period not greater than a five-fiscal-year period beginning with the fiscal year in which it is determined pursuant to clause (1) of this subsection that such agency suffered a disaster. The amount so provided for any fiscal year shall not exceed the amount which [the Commissioner] *the Secretary* determines to be necessary to enable such agency, with the State, local, and other Federal funds available to it for such purpose, to provide a level of education equivalent to that maintained in the schools of such agency prior to the occurrence of such disaster, taking into account the additional costs reasonably necessary to carry out the provisions of clause (4) of this subsection. The amount, if any, so provided for the second, third, and fourth fiscal years following the fiscal year in which it is so determined that such agency has suffered a disaster shall not exceed 75 per centum, 50 per centum, and 25 per centum, respectively, of the amount so provided for the first fiscal year following such determination.

(b) In addition to and apart from the funds provided under subsection (a), [the Commissioner] *the Secretary* is authorized to provide to such agency an amount which he determines to be necessary to replace instructional and maintenance supplies, equipment, and materials (including textbooks) destroyed or seriously damaged as a result of such disaster, to make minor repairs, and to lease or otherwise provide (other than by acquisition of land or erection of facilities) school and cafeteria facilities needed to replace temporarily such facilities which have been made unavailable as a result of the disaster.

(c) There is hereby authorized to be appropriated for each fiscal year such amounts as may be necessary to carry out the provisions of this section. Pending such appropriation, [the Commissioner] *the Secretary* is authorized to expend (without regard for subsections (a) and (e) of section 3679 of the Revised Statutes (31 U.S.C. 665)) from any funds appropriated to the Office of Education and at that time available to [the Commissioner] *the Secretary*, such sums as may be necessary for providing immediate assistance under this section. Expenditures pursuant to the preceding sentence shall—

(1) be reported by [the Commissioner] *the Secretary* to the Committees on Appropriations and Education and Labor of the House of Representatives and the Committees on Appropriations and [Labor and Public Welfare] *Labor and Human Resources* of the Senate within thirty days of the expenditure;

(2) be reimbursed from the appropriations authorized by the first sentence of this subsection.

The report required to the Committees on Appropriations by clause (1) in the preceding sentence shall constitute a budget estimate within the meaning of section 201(a)(5) of the Act of June 10, 1921 (31 U.S.C. 11(a)(5)).

(d) No payment may be made to any local educational agency under this section except upon application therefor which is submitted through the appropriate State educational agency and is filed with [the Commissioner] *the Secretary* in accordance with the regulations prescribed by him. In determining the order in which such applications shall be approved, [the Commissioner] *the Secretary* shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications. [In any case in which [the Commissioner] *the Secretary* does not complete, within sixty days, all action leading to approval or disapproval of an application filed under this section, the Secretary of Health, Education, and Welfare shall assume responsibility for such approval or disapproval of such application and shall complete such action within ninety days of the filing of such application.] *The Secretary shall complete action of approval or disapproval of an application within 90 days of the filing of an application.*

(e) Amounts paid by [the Commissioner] *the Secretary* to local educational agencies under this section may be paid in advance or by way of reimbursement and in such installments as [the Commissioner] *the Secretary* may determine. Any funds paid to a local educational agency and not expended or otherwise used for the purposes for which paid shall be repaid to the Treasury of the United States.

(f) Funds available for this section for any fiscal year shall also be available for section 16 of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress).

TITLE IV—GENERAL PROVISIONS

* * * * * * *

DEFINITIONS

SEC. 403. For the purposes of this Act—

(1)–(4) * * *

(5) The term "current expenditures" means expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted [under title I, II, or III of the Elementary and Secondary Education Act of 1965]. *under chapter 1 or 2 of title I of the Elementary and Secondary Education Improvement Act of 1987.*

(6)–(8) * * *

[(9) The terms "Commissioner of Education" and "Commissioner" mean the United States Commissioner of Education.]

(9) The term "Secretary" means the Secretary of Education.

* * * * * * *

PUBLIC LAW 815, 81ST CONGRESS

AN ACT Relating to the construction of school facilities in areas affected by Federal activities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PURPOSE AND APPROPRIATION

SECTION 1. The purpose of this Act is to provide assistance for the construction of urgently needed minimum school facilities in school districts which have had substantial increases in school membership as a result of new or increased Federal activities. There are hereby authorized to be appropriated for the fiscal year ending June 30, 1959, and each fiscal year thereafter, such sums as the Congress may determine to be necessary for such purpose. Sums so appropriated, other than sums appropriated for administration, shall remain available until expended.

PORTION OF APPROPRIATIONS AVAILABLE FOR PAYMENTS

SEC. 2. For each fiscal year [the Commissioner] *the Secretary* shall determine the portion of the funds appropriated pursuant to section 1 which shall be available for carrying out the provisions of sections 9 and 10. The remainder of such funds shall be available for paying to local educational agencies the Federal share of the cost of projects for the construction of school facilities for which applications have been approved under section 6.

ESTABLISHMENT OF PRIORITIES

SEC. 3. [The Commissioner] *The Secretary* shall from time to time set dates by which applications for payments under this Act with respect to construction projects must be filed, except that the last such date with respect to applications for payments on account of children referred to in paragraphs (2) or (3) of section 5(a) shall be not later than [September 30, 1988] *September 30, 1993.* [The Commissioner] *The Secretary* shall by regulation prescribe an order of priority, based on relative urgency of need, to be followed in approving applications in the event the funds appropriated under this Act and remaining available on any such date for payment to local educational agencies are less than the Federal share of the cost of the projects with respect to which applications have been filed prior to such date (and for which funds under this Act have not already been obligated). Only applications meeting the conditions for approval under this Act (other than section 6(b)(2)(C)) shall be considered applications for purposes of the preceding sentence.

FEDERAL SHARE FOR ANY PROJECT

SEC. 4. Subject to section 5 (which imposes limitations on the total of the payments which may be made to any local educational agency), the Federal share of the cost of a project under this Act shall be equal to such cost, but in no case to exceed the cost, in the school district of the applicant, of constructing minimum school facilities, and in no case to exceed the cost in such district of con-

structing minimum school facilities for the estimated number of children who will be in the membership of the schools of such agency at the close of the second year following the increase period and who will otherwise be without such facilities at such time. For the purposes of the preceding sentence, the number of such children who will otherwise be without such facilities at such time shall be determined by reference to those facilities which (1) are built or under contract as of the date on which [the Commissioner] *the Secretary* set, under section 3, the earliest date on or before which the application for such project was filed, or (2) as of the date the application for such project is approved, are included in a project the application for which has been approved under this Act.

LIMITATIONS ON TOTAL PAYMENTS TO ANY LOCAL EDUCATIONAL AGENCY

SEC. 5. (a) Subject to the limitations in subsections (c) and (d), the total of the payments to a local educational agency under this Act may not exceed the sum of the following:

(1) the estimated increase, since the base year, in—

(A) the number of children determined with respect to such agency under section 3(a)(2) of the Act of September 30, 1950, multiplied by 100 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated;

(B) the number of children determined with respect to such agency under section 3(a)(1) and such Act multiplied by 90 per centum of such cost;

(2) the estimated increase, since the base year, in—

(A) the number of children determined with respect to such agency under section 3(b)(3) of such Act multiplied by 50 per centum of such cost;

(B) the number of children determined with respect to such agency under section 3(b)(1) of such Act multiplied by 45 per centum of such cost; and

(C) the number of children determined with respect to such agency under section 3(b)(2) of such Act multiplied by 40 per centum of such cost;

(3) the estimated increase, since the base year, in the number of children whose membership results directly from activities of the United States (carried on either directly or through a contractor), multiplied by 45 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated. For purposes of this paragraph, [the Commissioner] *the Secretary* shall not consider as activities of the United States those activities which are carried on in connection with real property excluded from the definition of Federal property by the last sentence of paragraph (1) of section 15, but shall (if the local educational agency so elects pursuant to subsection (b)) consider as children whose membership results directly from activities of the United States children residing on Federal

property or residing with a parent employed on Federal property; and

(4) for the fiscal year ending June 30, 1967, the estimated number of children, without regard to the limitation in subsection (d), whose membership in the schools of such local educational agency resulted from a change in residence from land transferred to Mexico as part of a relocation of an international boundary of the United States, multiplied by 50 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated; but if, by reason of any other provision of law, this clause is not considered in computing the maximum payments a local educational agency may receive for the fiscal year ending June 30, 1967, the additional amount such agency would have been entitled to receive shall be added to such agency's entitlement for the first fiscal year for which funds appropriated to carry out this Act may be used for such purpose.

In computing for any local educational agency the number of children in an increase under paragraph (1), (2), or (3), the estimated number of children described in such paragraph who will be in the membership of the schools of such agency at the close of the increase period shall be compared with the estimated number of such children in the average daily membership of the schools of such agency during the base year.

(b) If two or more of the paragraphs of subsection (a) apply to a child, the local educational agency shall elect which of such paragraphs shall apply to such child, except that, notwithstanding the election of a local educational agency to have paragraph (2) apply to a child instead of paragraph (1), the determination of the maximum amount for such agency under subsection (a) shall be made without regard to such election.

(c) A local educational agency shall not be eligible to have any amount included in its maximum by reason of paragraph (1), (2), or (3) of subsection (a) unless the increase in children refered to in such paragraph, prior to the application of the limitation in subsection (d) is at least twenty and—

(1) in the case of paragraph (1) or (2), is—

(A) equal to at least 10 per centum of the number of all children who were in the average daily membership of the schools of such agency during the base year, or

(B) at least one thousand five hundred, whichever is the lesser; and

(2) In the case of paragraph (3), is—

(A) equal to at least 10 per centum of the number of all children who were in the average daily membership of the schools of such agency during the base year, or

(B) at least two thousand five hundred,

whichever is the lesser: *Provided,* That no local educational agency shall be regarded as eligible under this paragraph (2) unless [the Commissioner] *the Secretary* finds that the construction of additional minimum school facilities for the number of children in such increase will impose an undue fi-

nancial burden on the taxing and borrowing authority of such agency.

(d) If (1) the estimated number of nonfederally connected children who will be in the membership of the schools of a local educational agency at the close of the increase period is less than (2) 106 per centum of the number of such children who were in the average daily membership of such agency during the base year, the total number of children counted for purposes of subsection (a) with respect to such agency shall be reduced by the difference between (1) and (2) hereof, except that the number of children counted for the purposes of paragraph (1) or (2) of subsection (a) shall not be reduced by more than one thousand five hundred and that the number of children counted for the purposes of paragraph (3) of subsection (a) shall not be reduced by more than two thousand five hundred. For purposes of this subsection, all children in the membership of a local educational agency shall be counted as nonfederally connected children except children whose membership in the base year and increase period was compared in computing an increase which meets the requirements of subsection (c).

(e) Notwithstanding the provisions of subsections (c), (d), and (f) of this section, whenever and to extent that, in his judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of this Act, [the Commissioner] *the Secretary* may do any one or more of the following: (1) he may waive or reduce the minimum number requirement or any percentage requirement or requirements in subsection (c); (2) he may waive the requirement contained in the first sentence of subsection (d) or reduce the percentage specified in clause (2) of such sentence; or (3) he may waive or reduce the requirement contained in subsection (f).

(f) In determining under this section the total of the payments which may be made to a local educational agency on the basis of any application, the total number of children counted for purposes of paragraph (1), (2), or (3), as the case may be, of subsection (a) may not exceed—

(1) the number of children whose membership at the close of the increase period for the application is compared with membership in the base period for purposes of that paragraph, minus,

(2) the number of such children whose membership at the close of the increase period was compared with membership in the base year for purposes of such paragraph under the last previous application, if any, of the agency on the basis of which any payment has been or may be made to the agency.

APPLICATIONS

SEC. 6. (a) No payment may be made to any local educational agency under this Act except upon application therefor which submitted through the appropriate State educational agency and is filed with [the Commissioner] *the Secretary* in accordance with regulations prescribed by him.

(b)(1) Each application by a local educational agency shall set forth the project for the construction of school facilities for such

agency with respect to which it is filed, and shall contain or be supported by—

(A) a description of the project and the site therefor, preliminary drawings of the school facilities to be constructed thereon, and such other information relating to the project as may reasonably be required by [the Commissioner] *the Secretary*;

(B) assurance that such agency has or will have title to the site, or the right to construct upon such site school facilities as specified in the application and to maintain such school facilities on such site for a period of not less than twenty years after the completion of the construction;

(C) assurance that such agency has legal authority to undertake the construction of the project and to finance any non-Federal share of the cost thereof as proposed, and assurance that adequate funds to defray any such non-Federal share will be available when needed;

(D) assurance that such agency will cause work on the project to be commenced within a reasonable time and prosecuted to completion with reasonable diligence;

(F) assurance that the school facilities of such agency will be available to the children for whose education contributions are provided in this Act on the same terms, in accordance with the laws of the State in which the school district of such agency is situated, as they are available to other children in such school district; and

(G) assurance that such agency will from time to time prior to the completion of the project submit such report relating to the project as [the Commissioner] *the Secretary* may reasonably require.

(2) [the Commissioner] *the Secretary* shall approve any application if he finds (A) that the requirements of paragraph (1) have been met and that approval of the project would not result in payments in excess of those permitted by sections 4 and 5, (B) after consultation with the State and local educational agencies, that the project is not inconsistent with overall State plans for the construction of school facilities, and (C) that there are sufficient Federal funds available to pay the Federal share of the cost of such project and of all other projects for which Federal funds have not already been obligated and applications for which, under section 3, have a higher priorty: *Provided,* That [the Commissioner] *the Secretary* may approve any application for payments under this Act at any time after it is filed and before any priority is established with respect thereto under section 3 if he determines that—

(i) on the basis of information in his possession, it is likely that the urgency of the need of the local educational agency is such that it would have a priority under section 3 which would qualify it for payments under the Act when such priorities are established, and

(ii) the number of children in the increase under section 5(a) is in large measure attributable to children who reside or will reside in housing newly constructed on Federal property.

(c) No application under this Act shall be disapproved in whole or in part until [the Commissioner] *the Secretary* of Education

has afforded the local educational agency reasonable notice and opportunity for hearing.

PAYMENTS

SEC. 7. (a) Upon approving the application of any local educational agency under section 6, [the Commissioner] *the Secretary* of Education shall pay to such agency an amount equal to 10 per centum of the Federal share of the cost of the project. After final drawings and specifications have been approved by [the Commissioner] *the Secretary* of Education and the construction contract has been entered into, [the Commissioner] *the Secretary* shall, in accordance with regulations prescribed by him and at such times and in such installments as may be reasonable, pay to such agency the remainder of the Federal share of the cost of the project.

(b) Any funds paid to a local educational agency under this Act and not expended for the purposes for which paid shall be repaid to the Treasury of the United States.

ADDITIONAL PAYMENTS

SEC. 8. Not to exceed 10 per centum of the sums appropriated pursuant to this Act for any fiscal year (exclusive of any sums appropriated for administration) may be used by [the Commissioner] *the Secretary* under regulations prescribed by him, to make grants to local educational agencies where (1) the application of such agencies would be approved under this Act but for the agencies' inability, unless aided by such grants, to finance the non-Federal share of the cost of the projects set forth in their applications, or (2) although the applications of such agencies have been approved, the project covered by such applications could not, without such grants, be completed, because of flood, fire, or similar emergency affecting either the work on the projects or the agencies' ability to finance the non-Federal share of the cost of the projects. Such grants shall be in addition to the payments otherwise provided under this Act, shall be made to those local educational agencies whose need for additional aid is the most urgent and acute, and insofar as practicable shall be made in the same manner and upon the same terms and conditions as such other payments.

WHERE EFFECT OF FEDERAL ACTIVITIES WILL BE TEMPORARY

SEC. 9. Notwithstanding the preceding provisions of this Act, whenever [the Commissioner] *the Secretary* determines that the membership of some of all of the children, who may be included in computing under section 5 the maximum on the total of the payments for any local educational agency, will be of temporary duration only, such membership shall not be included in computing such maximum. Instead, [the Commissioner] *the Secretary* may make available to such agency such temporary school facilities as may be necessary to take care of such membership; or he may, where the local educational agency gives assurance that at least minimum school facilities will be provided for such children, pay (on such terms and conditions as he deems appropriate to carry out the purposes of this Act) to such agency for use in constructing school facilities an amount equal to the amount which he estimates

would be necessary to make available such temporary facilities. In no case, however, may the amount so paid exceed the cost, in the school district of such agency of constructing minimum school facilities for such children [the Commissioner] *the Secretary* may transfer to such agency or its successor all the right, title, and interest of the United States in and to any temporary facilities made available to such agency under this seciton (or section 309 of this Act as in effect January 1, 1958); any such transfer shall be without charge, but may be made on such other terms and conditions, and at such time as [the Commissioner] *the Secretary* deems appropriate to carry out the purposes of this Act.

CHILDREN FOR WHOM LOCAL AGENCIES ARE UNABLE TO PROVIDE EDUCATION

SEC. 10. (a) In the case of children who it is estimated by [the Commissioner] *the Secretary* in any fiscal year will reside on Federal property at the end of the next fiscal year—

(1) if no tax revenues of the State or any political subdivision thereof may be expended for the free public education of such children; or

(2) if it is the judgment of [the Commissioner] *the Secretary* after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for children, [the Commissioner] *the Secretary* shall make arrangements for constructing, leasing, renovating, remodeling, or rehabilitating or otherwise providing the minimum school facilities necessary for the education of such children. In any case in which [the Commissioner] *the Secretary* makes arrangements under this section for constructing, leasing, renovating, remodeling, or rehabilitating or otherwise providing minimum school facilities situated on Federal property in Puerto Rico, Wake Island, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands, he may also include minimum school facilities necessary for the education of children residing with a parent employed by the United States though not residing on Federal property, but only if [the Commissioner] *the Secretary* determines, after consultation with the appropriate State educational agency, (1) that the construction or provision of such facilities is appropriate to carry out the purposes of this Act, (2) that no local educational agency is able to provide suitable free public education for such children, and (3) that English is not the primary language of instruction in schools in the locality. Such arrangements may also be made to provide, on a temporary basis, minimum school facilities for children of members of the Armed Forces on active duty, if the schools in which free public education is usually provided for such children are made unavailable to them as a result of official action by State or local governmental authority and it is the judgment of [the Commissioner] *the Secretary* after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children. To the maximum extent practicable school fa-

cilities provided under this section shall be comparable to minimum school facilities provided for children in comparable communities in the State. This section shall not apply (A) to children who reside on Federal property under the control of the Atomic Energy Commission, and (B) to Indian children attending federally operated Indian schools. Whenever it is necessary for [the Commissioner] *the Secretary* to provide school facilities for children residing on Federal property under this section, the membership of such children may not be included in computing under section 5 the maximum on the total of the payments for any local educational agency.

(b) When [the Commissioner] *the Secretary* determines it is in the interest of the Federal Government to do so, he may transfer to the appropriate local educational agency all the right, title, and interest of the United States in and to any facilities provided under this section (or sections 204 or 310 of this Act as in effect January 1, 1958). Any such transfer shall be without charge, but may be on such other terms and conditions, and at such time as [the Commissioner] *the Secretary* deems appropriate to carry out the purposes of this Act.

(c) If no tax revenues of a State or of any political subdivision of the State may be expended for the free public education of children who reside on any Federal property within the State, or if no tax revenues of a State are allocated for the free public education of such children, then the property on which such children reside shall not be considered Federal property for the purposes of section 5 of this Act.

WITHHOLDING OF PAYMENTS

SEC. 11. (a) Whenever [the Commissioner] *the Secretary* of Education, after reasonable notice and opportunity for hearing to a local educational agency, finds (1) that there is a substantial failure to comply with the drawings and specifications for the project, (2) that any funds paid to a local educational agency under this Act have been diverted from the purposes for which paid, or (3) that any assurance given in an application is not being or cannot be carried out, [the Commissioner] *the Secretary* may forthwith notify such agency that no further payment will be made under this Act with respect to such agency until there is no longer any failure to comply or the diversion or default has been corrected or, if compliance or correction is impossible, until such agency repays or arranges for the repayment of Federal moneys which have been diverted or improperly expended.

(b) The final refusal of [the Commissioner] *the Secretary* to approve part or all of any application under this Act, and [the Commissioners'] *the Secretarys'* final action under subsection (a) of this section, shall be subject to judicial review on the record, in the United States court of appeals for the circuit in which the local educational agency is located, in accordance with the provisions of the Administrative Procedure Act.

ADMINISTRATION

Sec. 12. [(a) Repealed.]

(b) [The Commissioner] *The Secretary* of Education shall administer this Act, and he may make such regulations and perform such other functions as he finds necessary to carry out the provision of this Act.

(c) [The Commissioner] *The Secretary* shall include in his annual report to the Congress a full report of the administration of his functions under this Act, including a detailed statement of receipts and disbursements.

USE OF OTHER FEDERAL AGENCIES: TRANSFER AND AVAILABILITY OF APPROPRIATIONS

SEC. 13. [(a) Repealed.]

(b) All Federal departments or agencies administering Federal property on which children reside, and all such departments or agencies principally responsible for Federal activities which may give rise to a need for the construction of school facilities shall to the maximum extent practicable, comply with requests of [the Commissioner] *the Secretary* for information he may require in carrying out the purposes of his Act.

(c) No appropriation to any department or agency of the United States, other than an appropriation to carry out this Act, shall be available for the same purpose as this Act; except that nothing in this subsection shall affect the availability of appropriation authorized, prior to September 23, 1950, for the construction of school facilities to be attended by Indian children, or appropriations (1) for the construction of school facilities on Federal property under the control of the Atomic Energy Commission, (2) for the construction of school facilities which are to be federally operated for Indian children, or (3) for the contruction of school facilities under the Alaskan Public Works Act, approved August 24, 1949.

SCHOOL CONSTRUCTION ASSISTANCE IN OTHER FEDERALLY AFFECTED AREAS

SEC. 14. (a) If [the Commissioner] *the Secretary* determines with respect to any local educational agency that—

(1) such agency is providing or, upon completion of the school facilities for which provision is made herein, will provide free public education for children who reside on Indian lands, and whose membership in the schools of such agency has not formed and will not form the basis for payments under other provisions of this Act, and that the total number of such children represents a substantial percentage of the total number of children for whom such agency provides free public education, or that such Indian lands constitute a substantial part of the school district of such local educational agency, or that the total number of such children who reside on Indian lands located outside the school district of such agency equals or exceeds 100;

(2) the immunity of such Indian lands to taxation by such agency has created a substantial and continuing impairment of its ability to finance needed school facilities;

(3) such agency is making a reasonable tax effort and is exercising due diligence in availing itself of State, and other financial assistance available for the purpose; and

(4) such agency does not have sufficient funds available to it from other Federal, State, and local sources to provide the minimum school facilities required for free public education of a substantial percentage of the children in the membership of its schools,

he may provide the additional assistance necessary to enable such agency to provide such facilities, upon such terms and in such amounts (subject to the provisions of this section) as [the Commissioner] *the Secretary* may consider to be in the public interest; but such additional assistance may not exceed the portion of the cost of such facilities which [the Commissioner] *the Secretary* estimates has not been, and is not to be, recovered by the local educational agency from other sources, including payments by the United States under any other provisions of this Act or any other law. Notwithstanding the provisions of this subsection, [the Commissioner *the Secretary* may waive the percentage requirement in paragraph (1) whenever, in his judgment, exceptional circumstances exist which makes such action necessary to avoid inequity and avoid defeating the purposes of this section. Assistance may be furnished under this subsection without regard to paragraph (2) (but subject to the other provisions of this subsection and subsection (e)) to any local educational agency which provides free public education for children who reside on Indian lands located outside its school district. For purposes of this subsection "Indian lands" means Indian reservations or other real property referred to in the second sentence of section 15(1).

(b) If [the Commissioner] *the Secretary* determines with respect to any local educational agency that—

(1) such agency is providing or, upon completion of the school facilities for which provision is made herein, will provide free public education for children who reside on Indian lands, and whose membership in the schools of such agency has not formed and will not form the basis for payments under other provisions of this Act, and that the total number of such children represents a substantial percentage of the total number of children for whom such agency provides free public education, or that such Indian lands constitute a substantial part of the school district of such local educational agency, or that the total number of such children who reside on Indian lands located outside the school district of such agency equals or exceeds one hundred; and

(2) the immunity of such Indian lands to taxation by such agency has created a substantial and continuing impairment of its ability to finance needed school facilities;

he may, upon such terms and in such amounts (subject to the provisions of this section) as [the Commissioner] *the Secretary* may consider to be in the public interest, provide the additional assistance necessary to enable such agency to provide the minimum school facilities required for free public education of children in the membership of the schools of such agency who reside on Indian lands; but such additional assistance may not exceed the portion of

the cost of constructing such facilities which [the Commissioner] *the Secretary* estimates has not been, and is not to be, recovered by the local educational agency from other sources, including payments by the United States under any other provisions of this Act or any other law. Notwithstanding the provisions of this subsection, [the Commissioner] *the Secretary* may waive the percentage requirement in paragraph (1) whenever, in his judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of this section. Assistance may be furnished under this subsection without regard to paragraph (2) (but subject to the other provisions of this subsection and subsection (e)) to any local educational agency which provides free public education for children who reside on Indian lands located outside its school district. For purposes of this subsection "Indian lands" means Indian reservations or other real property referred to in the second sentence of section 15(1).

(d) There are hereby authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section. There are also authorized to be appropriated such sums as may be necessary for administration of such provisions. Amounts so appropriated, other than amounts appropriated for administration, shall remain available until expended.

(c) If [the Commissioner] *the Secretary* determines with respect to any local educational agency—

(1) that (A) such agency is providing or, upon completion of the school facilities for which provision is made herein, will provide, free public education for children who are inadequately housed by minimum school facilities and whose membership in the schools of such agency has not formed and will not form the basis for payments under other provisions of this Act, and (B) the total number of such children represents a substantial percentage of the total number of children for whom such agency provides free public education, and (C) Federal property constitutes a substantial part of the school district of such agency,

(2) that the immunity of such Federal property from taxation by such agency has created a substantial and continuing impairment of such agency's ability to finance needed school facilities.

(3) that such agency is making a reasonable tax effort and is exercising due diligence in availing itself of State and other financial assistance for the purpose, and

(4) that such agency does not have sufficient funds available to it from other Federal, State, and local sources to provide the minimum school facilities required for free public education of a substantial percentage of the children in the membership of its schools.

he may provide the assistance necessary to enable such agency to provide minimum school facilities for children in the membership of the schools of such agency whom [the Commissioner] *the Secretary* finds to be inadequately housed, upon such terms and conditions, and in such amounts (subject to the applicable provisions of this section) as [the Commissioner] *the Secretary* may consider to be in the public interest. Such assistance may not exceed the por-

tion of the cost of such facilities which [the Commissioner] *the Secretary* estimates has not been, and is not to be, recovered by the local educational agency from other sources, including payments by the United States under any other provisions of this Act or any other law. Notwithstanding the provisions of this subsection, [the Commisioner] *the Secretary* may waive the percentage requirement in paragraph (1) whenever, in his judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of this subsection.

(e) No payment may be made to any local educational agency under subsection (a) or (b) except upon application therefor which is submitted through the appropriate State educational agency and is filed with [the Commissioner] *the Secretary* in accordance with regulations prescribed by him, and which meets the requirements of section 6(b)(1). In determining the order in which such applications shall be approved, [the Commissioner] *the Secretary* shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications and the nature and extend of the Federal responsibility. No payment may be made under subsection (a) or (b) unless [the Commissioner] *the Secretary* finds, after consultation with the State and local educational agencies, that the project or projects with respect to which it is made are not inconsistent with overall State plans for the construction of school facilities. All determinations made by [the Commissioner] *the Secretary* under this section shall be made only after consultation with the appropriate State educational agency and the local educational agency.

(f) Amounts paid by [the Commissioner] *the Secretary* to local educational agencies under subsection (a) or (b) may be paid in advance of, or by way of reimbursement for, work performed or purchases made pursuant to the agreement with [the Commissioner] *the Secretary* under this section, and may be paid in such installments as [the Commissioner] *the Secretary* may determine. Any funds paid to a local educational agency and not expended or otherwise used for the purposes for which paid shall be repaid to the Treasury of the United States.

(g) None of the provisions of sections 1 to 10, both inclusive, other than section 6(b)(1), shall apply with respect to determinations made under this section.

(h) It is hereby declared to be the policy of the Congress that the provision of assistance pursuant to subsection (a) and (b) of this section shall be given a priority at least equal to that given to payments made pursuant to section 10 of this Act.

DEFINITIONS

Sec. 15. For the purposes of this Act—

(1) The Term "Federal property" means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or any political subdivision of a State or by the District of Columbia. Except for the purposes of section 10, such term includes (A) real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or Indian tribes which

is subject to restrictions on alienation imposed by the United States, any low-rent housing (whether or not owned by the United States) which is part of a low-rent housing project assisted under the United States Housing Act of 1937, and (C) any school which is providing flight training to members of the Air Force under contractual arrangements with the Department of the Air Force at an airport which is owned by a State or a political subdivision of a State. Such term also includes any interest in Federal property (as defined in the foregoing provisions of this paragraph) under an easement, lease, license, permit, or other arrangement, as well as any improvements of any nature (other than pipelines or utility lines) on such property even though such interests or improvements are subject to taxation by a State or political subdivision of a State or by the District of Columbia. Notwithstanding the foregoing provisions of this paragraph, such term does not incude (A) any real property used for a labor supply center, labor home, or labor camp for migratory farm workers and (B) any real property under the jurisdiction of the Post Office Department and used primarily for the provision of postal services.

(2) The term "child" means any child who is within the age limits for which the applicable State provides free public education.

(3) The term "parent" includes a legal guardian or other person standing in loco parentis.

(4) The term "free public education" means education which is provided at public expense, under public supervision and direction, and wihtout tuition charge, and which is provided as elementary or secondary school education in the applicable State.

(5) The membership of schools shall be determined in accordance with State law or, in the absence of State law governing such a termination, in accordance with regulations of [the Commissioner] *the Secretary;* except that, notwithstanding any other provision of this Act, where the local educational agency of the school disctrict in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this Act the membership of such child be held and considered—

(A) if the two local educational agencies concerned so agree, and if such agreement is approved by [the Commissioner] *the Secretary* as membership of a school of the local educational agency receiving such tutition payment;

(B) in the absence of any such approved agreement, as membership of a school of the local educational agency so making or contracting to make such tuition payment.

In any determination of membership of schools, children who are not provided free public education (as defined in paragraph (4)) shall not be counted.

(6) The average per pupil of constructing minimum school facilities in the State in which the school district of a local educational agency is situated, shall be determined by [the Commissioner] *the Secretary* of education on the basis of the contract cost per square foot under contracts for the construction of school facilities (exclusive of costs of site improvements, equipment, and architectural, engineering, and legal fees) entered into in the State for the second year of the four year increase period designated in the application,

increased by a percentage estimated by [the Commissioner] *the Secretary* to represent additional costs for site improvements, equipment, and archtectural, engineering, and legal fees, and multipled by a factor estimated by [the Commissioner] *the Secretary* to represent the area needed per pupil in minimum school facilities. If [the Commissioner] *the Secretary* finds that the information available for the State concerned for such preceding fiscal year is inadequate or not sufficiently representative, he shall determine such costs on the basis of such information as he has available and after consultation with the State educational agency. The cost of constucting minimum school facilities in the school district of a local educational agency shall be determined by [the Commissioner] *the Secretary* after consultation with the State and local educational agencies, on the basis of such information as may be contained in the application of such local educational agency and such other information as he may obtain.

(7) Estimates of membership, and all other determinations with respect to eligibility and maximum amount of payment shall be made as of the time of the approval of the application for which made, and shall be made on the basis of the best information available at the time of such approval.

(8) The terms "construct", "constructing", and "construction" include the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

(9) The term "school facilities" includes classrooms and related facilities; and initial equipment, machinery, and utilities necessary or appropriate for school purposes. Such term does not include athletic stadiums, or structures or facilities intended primarily for athletic exhibitions, contests, or games or other events for which admission is to be charged to the general public. Except as used in section 9 and 10, such term does not include interests in land and off-site improvements.

(10) Whether or not school facilities are minimum school facilities shall be determined by [the Commissioner] *the Secretary* after consultation with the State and local educational agencies, in accordance with regulations presribed by him. Such regulations shall (A) require the local educational agency concerned to give due consideration to excellence of architecture and design, (B) provide that no facility shall be disqualified as a minimum school facility because of the inclusion of works of art in the plans therefor if the cost of such works of art does not exceed 1 per centum of the cost of the project, and (C) require compliance with such standards as the Secretary may prescribe or approve in order to insure that facilities constructed with the use of Federal funds under this Act shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

(11) The term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State. Such term includes any State agency which is directly operates and maintains facilities for providing free public

education or which has responsibility for the provision of such facilities.

(12) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(13) The term "State" means a State, Puerto Rico, Guam, the District of Columbia, American Samoa, the Northern Mariana Islands, the Virgin Islands, or Wake Island.

[(14) The terms "Commissioner of Education" and "Commissioner" means the United States Commissioner of Education.]

(14) The term "Secretary" means the Secretary of Education.

(15) The term "base year" means the third or fourth regular school year preceding the fiscal year in which an application was filed under this Act, as may be designated in the application, except that in the case of an application based on children referred to in paragraph (2) or (3) of section 5(a), the base year shall in no event be later than the regular school year 1978–1979; and

(16) The term "increase period" means the period of four consecutive regular school years immediately following such base year.

SCHOOL CONSTRUCTION ASSISTANCE IN CASES OF CERTAIN DISASTERS

SEC. 16. (a) In any case in which—

(1)[(A)] the Director of the Office of Emergency Planning determines with respect to any local educational agency (including for the purpose of this section any other public agency which operates schools providing technical, vocational, or other special education to children of elementary or secondary school age) that such agency is located in whole or in part within an area which, after August 30, 1965, and prior to [October 1, 1988,] *October 1, 1993,* has suffered a major disaster as the result of any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe which, in the determination of the President pursuant to section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a), is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government; [or] *and*

[(B) the Commissioner determines with respect to any such agency that public elementary or secondary school facilities (or, in the case of a public agency other than a local educational agency, school facilities providing technical, vocational, or other special education to children of elementary or secondary school age) of such agency have been destroyed or seriously damaged as a result of flood, hurricane, earthquake, storm, fire, or other catastrophe, except any such catastrophe caused by negligence or malicious action; and]

(2) the Governor of the State in which such agency is located has certified the need for disaster assistance under this section, and has given assurance of expenditure of a reasonable amount of the funds of the government of such State, or of any political subdivision thereof, for the same or similar purposes with respect to such catastrophe;

and if [the Commissioner] *the Secretary* determines with respect to such agency that—

(3) as a result of such major disaster, (A) public elementary or secondary school facilities of such agency (or, in the case of a public agency other than a local educational agency, school facilities providing technical, vocational, or other special education to children of elementary or secondary school age) have been destroyed or seriously damaged, or (B) private elementary or secondary school facilities serving children who reside in the area served by such agency have been destroyed and will not be replaced, thereby increasing the need of such agency for school facilities;

(4) such agency is utilizing or will utilize all State and other financial assistance available for the replacement or restoration of such school facilities;

(5) such agency does not have sufficient funds available to it from State, local, and other Federal sources (including funds available under other provisions of this Act), and from the proceeds of insurance on such school facilities, and required an amount of additional assistance equal to at least [$1,000 or one-half of 1 per centum] *$10,000 or 5 per centum* of such agency's current operating expenditures during the fiscal year preceding the one in which such disaster occurred, whichever is less, to provide the minimum school facilities needed (A) for the restoration or replacement of the school facilities of such agency so destroyed or seriously damaged or (B) to serve, in facilities of such agency, children who but for the destruction of the private facilities referred to in clause (3)(B) would be served by such private facilities; and

(6) in the case of any such major disaster, to the extent that the operation of private elementary and secondary schools in the school attendance area of the local educational agency has been disrupted or impaired by such disaster, such local educational agency has complied with the provisions of section 7(a)(4) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), with respect to provisions for the conduct of educational programs under public auspices and administration in which children enrolled in such private elementary and secondary schools may attend and participate.

[the Commissioner] *the Secretary* may provide the additional assistance necessary to enable such agency to provide such facilities, upon such terms and in such amounts (subject to the provisions of this section) as [the Commissioner] *the Secretary* may consider to be in the public interest; but such additional assistance, plus the amount which he determines to be available from State, local, and other Federal sources (including funds available under other provisions of this Act), and from the proceeds of insurance, may not exceed the cost of construction incident to the restoration or replacement of the school facilities destroyed or damaged as a result of the disaster. For the purpose of the preceding sentence, the phrase "cost of construction incident to the restoration or replacement of the school facilities" includes such additional amounts as [the Commissioner] *the Secretary* may approve in order to assure that the facilities, as restored or replaced, will afford appropriate protection against personal injuries resulting from a disaster.

(b) There are hereby authorized to be appropriated for each fiscal year such amounts as may be necessary to carry out the provisions of this section. Pending such appropriation, [the Commissioner] *the Secretary* may expend (without regard subsections (a) and (e) of section 3679 of the Revised Statutes (31 U.S.C. 665)) from any funds heretofore or hereafter appropriated for expenditure in accordance with other sections of this Act such sums as may be necessary for immediately providing assistance under this section, such appropriations to be reimbursed from the appropriations authorized by this subsection when made.

(c) No payment may be made to any local educational agency under subsection (a) except upon application therefor which is submitted through the appropriate State educational agency and is filed with [the Commissioner] *the Secretary* in accordance with regulations prescribed by him, and which meets the requirements of section 6(b)(1). In determining the order in which such applications shall be approved, [the Commissioner] *the Secretary* shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications. No payment may be made under subsection (a) unless [the Commissioner] *the Secretary* finds, after consultation with the State and local educational agencies, that the project or projects with respect to which it is made are not inconsistent with overall State plans for the construction of school facilities. All determinations made by [the Commissioner] *the Secretary* under this section shall be made only after consultation with the appropriate State educational agency and the local educational agency. [In any case in which the Commissioner does not complete, within sixty days, all action leading to approval or disapproval of an application filed under this section, the Secretary of Health, Education, and Welfare shall assume responsibility for such approval or disapproval of such application and shall complete such action within ninety days of the filing of such application.] *The Secretary shall complete action of approval or disapproval of an application within 90 days of the filing of an application.*

(d) Amounts paid by [the Commissioner] *the Secretary* to local educational agencies under subsection (a) may be paid in advance or by way of reimbursement and in such installments as [the Commission] *the Secretary* may determine. Any funds paid to a local educational agency and not expended or otherwise sued for the purposes for which paid shall be repaid to the Treasury of the United States.

(e) None of the provisions of sections 1 to 10, both inclusive, other than section 6(b)(1), shall apply with respect to this section.

SPECIAL BASE CLOSING PROVISION

SEC. 17. In determining the payment to be made to a local educational agency under this Act [The Commissioner] *the Secretary* shall disregard the announcement, made November 19, 1964, of a decrease in or cessation of Federal activities in certain areas, and

shall carry out such Act as if such announcement had not been made.

* * * * * * *

EDUCATION FOR ECONOMIC SECURITY ACT

* * * * * * *

[TITLE II—EDUCATION FOR ECONOMIC SECURITY

[STATEMENT OF PURPOSE

[SEC. 201. It is the purpose of this title to make financial assistance available to State and local educational agencies, and to institutions of higher education, to improve the skills of teachers and instruction in mathematics, science, computer learning, and foreign languages, and to increase the access of all students to such instruction, and thereby contribute to strengthening the economic security of the United States.

[DEFINITION

[SEC. 202. As used in this title, the term "junior or community college" means an institution of higher education—

[(1) that admits as regular students individuals who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

[(2) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

[(3) that—

[(A) provides an educational program of not less than two years that is acceptable for full credit toward such a degree, or

[(B) offers a two-year program designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical prinicipal of knowledge.

[PROGRAM AUTHORIZED

[SEC. 203. (a) The Secretary is authorized to make grants to States and to make discretionary grants, in accordance with the provisions of this title, for strengthening the skills of teachers and instruction in mathematics, science, computer learning, and foreign languages.

[(b) There are authorized to be appropriated $350,000,000 for the fiscal year 1984, $400,000,000 for the fiscal year 1985, and $350,000,000 for each of the fiscal years 1986, 1987, and 1988 to carry out the provisions of this title.

[ALLOTMENT TO STATES

[SEC. 204. (a)(1) From 90 per centum of the amount appropriated to carry out this title for each fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such 90 per centum as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all States, except that no State shall receive less than one-half of 1 per centum of the amount available under this subsection in any fiscal year.

[(2)(A) The Secretary shall reserve 9 per centum of such amount to carry out section 212, relating to discretionary grants on national significance.

[(B) The Secretary shall reserve the remaining 1 per centum to carry out the provisions of subsection (c).

[(3) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

[(4) The number of children aged five to seventeen, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

[(b) The amount of any State's allotment under subsection (a) for any fiscal year to carry out this title which the Secretary determines will not be required for that fiscal year to carry out this title shall be available for reallotment from time to time, on such dates during that year as the Secretary may fix, to other States in proportion to the original allotments to those States under subsection (a) for that year but with such proportionate amount for any of those States being reduced to the extent it exeeds the sum the Secretary estimates that State needs and will be able to use for that year; and the total of those reductions shall be similarly realloted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year shall be deemed a part of its allotment under subsection (a) for that year.

[(c)(1) From the amount reserved for each fiscal year under subsection (a)(2)(B), the Secretary shall allot—

[(A) not less than one-half of that amount to whatever agency the Secretary determines appropriate for programs authorized by this title for children in elementary and secondary schools operated for Indian children by the Department of the Interior; and

[(B) the remainder of that amount among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this title.

[(2) The Secretary shall make payments under paragraph (1)(A) on whatever terms the Secretary determines will best carry out the purpose of this title.

[IN-STATE APPORTIONMENT

[SEC. 205. (a) For each of the fiscal years 1984, 1985, 1986, 1987, and 1988; 70 per centum of each State's allotment under section

204 of this title shall be used for elementary and secondary education programs in accordance with section 206.

[(b) For each of the fiscal years 1984, 1985, 1986, 1987, and 1988; 30 per centum of each State's allotment under section 204 of this title shall be used for higher education programs in accordance with section 207.

[ELEMENTARY AND SECONDARY EDUCATION PROGRAMS

[SEC. 206 (a) The amount apportioned under section 205(a) from each State's allotment under this title shall be used by the State educational agency to strengthen elementary and secondary education programs in accordance with the provisions of this section.

[(b)(1) Not less than 70 per centum of the amount available under this section shall be distributed to local educational agencies within the State. Each local educational agency shall use funds distrubuted under this paragraph for—

[(A) the expansion and improvement of training, inservice training, and retraining of teachers and other appropriate school personnel in the fields of mathematics and science, including vocational education teachers who use mathematics and science in the courses of study the teachers teach; or

[(B) if the local educational agency determines that the agency has met its need for training, inservice training, and retraining under subparagraph (A), subject to the provisions of section 210(c), such training, inservice training, and retraining in the field of computer learning and foreign languages, and the acquisition of instructional materials and equipment related to mathematics and science instruction.

Such training and instruction may be carried out through agreements with public agencies, private industry, institutions of higher education, and nonprofit organizations, including museums, libraries, educational television stations, professional science, mathematics and engineering associations, and other appropriate institutions. A local educational agency may carry out the activities authorized by this paragraph with one or more other local educational agencies within the State, or with the State educational agency, or both. Each local educational agency shall assure that programs of training, inservice training and retraining will take into account the need of greater access to and participation in mathematics, science, and computer learning programs and careers of students from historically underrepresented groups, including females, minorities, individuals with limited-English proficiency, the handicapped, and migrants.

[(2)(A) The State educational agency shall distribute 50 per centum of the funds available under this subsection to local educational agencies according to the relative enrollments in public and private nonprofit schools within the school district of such agencies. Such relative enrollments may be calculated, at the option of the State educational agency, on the basis of the total number of children enrolled in public schools and (i) private nonprofit schools, or (ii) private nonprofit schools desiring that their children and teachers participate in programs or projects assisted under this title. Nothing in the preceding sentence shall diminish the respon-

sibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within their school districts in order to determine whether such schools desire that their children and teachers participate in programs or projects assisted under this title.

[(B) The State educational agency shall distribute 50 per centum of the funds available under this subsection based on the relative number of children aged five to seventeen who—

[(i) are from families below the poverty level as determined under section 111(c)(2)(A) of the Elementary and Secondary Education Act of 1965; and

[(ii) are from families above the poverty level as determined under section 111(c)(2)(B) of the Elementary and Secondary Education Act of 1965;

in the public schools of the local educational agencies within the State.

[(3) The State educational agency shall renew payments to local educational agencies under this subsection based upon the criteria set forth in paragraph (2) of this subsection and a determination by the State educational agency that the local educational agency is implementing the program assisted under this title so that a substantial number of teachers in the public and private schools in the school district of such agency are served and several grade levels of instruction in such schools are involved in the program.

[(c)(1) If a local educational agency is spending funds under subsection (b)(1)(B), not to exceed 30 per centum of the funds available to the local educational agency under subsection (b) may be used for the purchase of computer and computer-related instructional equipment.

[(2) If a local educational agency is spending funds under subsection (b)(1)(B), not to exceed 15 per centum of the funds available to the local educational agency under subsection (b) may be used to strengthen instruction in foreign languages.

[(d) Not less than 20 per centum of the amount available under this section shall be used by the State educational agency—

[(1) demonstration and exemplary programs for teacher training and retraining and inservice upgrading of teacher skills in the fields of mathematics and science, foreign language instruction, and computer learning,

[(2) demonstration and exemplary programs for instructional equipment and materials in such fields and necessary technical assistance,

[(3) demonstration and exemplary programs for special projects for historically underrepresented and underserved populations and for gifted and talented students, and

[(4) the dissemination of information to all local educational agencies within the State relating to the exemplary programs in the fields of mathematics, science, foreign languages, and computer learning.

In providing financial assistance for such demonstration and exemplary programs, the State educational agency shall reserve not less than 20 per centum of the amount available under this subsection for special projects in mathematics and science, foreign languages, and computer education to historically underrepresented and un-

derserved populations of students, including females, minorities, handicapped individuals, individuals with limited-English proficiency, and migrant students, and to programs for gifted and talented students. The programs for gifted and talented students may include assistance to magnet schools for such students.

[(e) Not less than 5 per centum of the amount available under this section may be used by the State educational agency to provide technical assistance to local educational agencies, institutions of higher education, and nonprofit organizations, including museums, libraries, and educational television stations, in the conduct of programs specified under subsection (b).

[(f) Not to exceed 5 per centum of the amount available under this section may be used by the State educational agency for—

[(1) the State assessment required by section 208 of this title; and

[(2) the costs of administration and evaluation of the program assisted under this title.

[HIGHER EDUCATION PROGRAMS

[SEC. 207. (a) The amount apportioned under section 205(b) from each State's allotment under this title shall be used by the State agency for higher education for higher education programs in accordance with the provisions of this section.

[(b)(1)(A) Not less than 75 per centum of the amount available for this section shall be used by the State agency for higher education for grants to institutions of higher education in accordance with the provisions of this subsection.

[(B) The State agency for higher education shall make funds available on a competitive basis to institutions of higher education in the State which apply for payments under this section. The State agency for higher education shall make every effort to ensure equitable participation of private and public institutions of higher education.

[(2) The amount available under this subsection shall be used for—

[(A) establishing traineeship programs for new teachers who will specialize in teaching mathematics and science at the secondary school level;

[(B) retraining of secondary school teachers who specialize in disciplines other than the teaching of mathematics, science, foreign languages, or computer learning to specialize in the teaching of mathematics, science, foreign languages, or computer learning, including the provision of stipends for participation in institutes authorized under title I; and

[(C) inservice training for elementary, secondary, and vocational school teachers and training for other appropriate school personnel to improve their se (1)teaching skills in the fields of mathematics, science, foreign languages, and computer learning, including stipends for participation in institutes authorized under title I.

Each institution of higher education receiving a grant under this subsection shall assure that programs of training, retraining, and inservice training will take into account the need for greater access

to and participation in mathematics, science, foreign languages, and computer learning and careers of students from historically underrepresented and underserved groups, including females, minorities, individuals with limited-English proficiency, the handicapped, migrants, and the gifted and talented.

[(3) No institution of higher education may receive assistance under paragraphs (2) (B) and (C) of this subsection unless the institution enters into an agreement with a local educational agency, or consortium of such agencies, to provide inservice training and retraining for the elementary and secondary school teachers in the public and private schools of the school district of each such agency.

[(c)(1) Not less than 20 per centum of the amount available under this section shall be used by the State agency for higher education for cooperative programs among institutions of higher education, local educational agencies, State educational agencies, private industry, and nonprofit organizations, including museums, libraries, educational television stations, and professional mathematics, science, and engineering societies and associations for the development and dissemination of projects designed to improve student understanding and performance in science, mathematics, computer learning and critical foreign languages. In carrying out this subsection, the State agency for higher education shall give special consideration to programs involving consortial arrangements which include local educational agencies.

[(2) For the purpose of paragraph (1) of this subsection, critical foreign languages include foreign languages designated by the Secretary pursuant to section 211(d).

[(d) Not to exceed 5 per centum of the amount available under this section may be used by the State agency for higher education for—

[(1) the State assessment required by section 208 of this title; and

[(2) the costs of administration and evaluation of the program assisted under this title incurred by the State higher education agency.

[STATE ASSESSMENT OF MATHEMATICS, SCIENCE, FOREIGN LANGUAGES, AND COMPUTER LEARNING

[SEC. 208, (a) Each State which desires to receive grants under the title shall prepare not later than nine months following the date for which funds under this title become available, a preliminary assessment of the status of mathematics, science, foreign language, and computer learning within the State. Such preliminary assessment shall be made available to all local educational agencies within the State to assist the local educational agencies to carry out the requirements of section 210(b). A final version of such assessment shall be submitted to the Secretary not later than the end of the first year for which funds under the title are made available. Each preliminary assessment shall be prepared after an examination of the local assessments submitted under section 210. Each such assessment shall include a description and a five-year projection of—

[(1) the availability of qualified mathematics, science, foreign language, and computer learning teachers at the secondary and postsecondary education levels within the State;

[(2) the qualifications of teachers in mathematics, science, foreign languages, and computer learning at the secondary and postsecondary education levels, and the qualifications of teachers at the elementary level to teach mathematics, science, foreign languages, and computer learning;

[(3) the State standards for teacher certification, including any special exceptins currently made, for teachers of mathematics, science, foreign, languages, and computer learning;

[(4) the availability of adequate curricula, instructional matrials and equipment, in mathematics, science, foreign languages, and computer learning; and

[(5) the degree of access to instruction in mathematics, science, foreign languages, and computer learning of historically underrepresented and underserved individuals and of the gifted and talented.

[(b) Each such assessment shall also describe the programs, initiatives, and resources committed or projected to be undertaken within the State to—

[(1) improve teacher recruitment and retention;

[(2) improve teacher qualifications and skills in the fields of mathematics, science, foreign languages, and computer and computer learing;

[(3) improve curricula in mathematics, science, foreign languages, and computer learning including instructional materials and equipment, and

[(4) improve access for historically underrepresented and underserved populations, and for the gifted and talented, to instruction in mathematics, science, foreign languages, and computer learning.

[(c)(1) Each State assessment shall be developed in consultation with the Governor, the State legislature, State Board of Education, local educational agencies within the State, and representatives of—

[(A) vocational secondary schools and area vocational education schools,

[(B) public and private institutions of higher education,

[(C) teacher organizations,

[(D) private industry,

[(E) other nonprofit organizations, including libraries, museums, and educational television stations, and professional scientific and mathematics associations, and

[(F) private elementary and secondary schools, within the State.

[(2) Each State assessment shall be submitted jointly by the State educational agency and the State agency for higher education.

[(d) The Secretary shall prepare and submit to the Congress a summary report of the final version of the assessments submitted by State under subsection (a) as soon as practicable after the receipt of such assessments.

[STATE APPLICATION

[Sec. 209. (a) Each State which desires to receive grants under this title shall file an application with the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

[(b) Each such application shall—

[(1) designate the State educational agency for the purpose of programs described in section 206, and the State agency for higher education for programs described in section 207 as the agency or agencies responsible for the administration and supervision of the programs described in sections 206 and 207, as the case may be;

[(2) describe the programs for which assistance is sought under the application;

[(3) provide assurances that payments will be distributed by the State in accordance with the provisions of sections 206 and 207, as the case may be;

[(4) provide procedures—

[(A) for submitting applications for programs described in sections 206 and 207 for distribution of payments under this title within the State, and

[(B) for approval of applications by the appropriate State agency, including appropriate procedures to assure that the appropriate State agency will not disapprove an application without notice and opportunity for a hearing;

[(5) provide assurances that—

[(A) the State will prepare and submit the assessment required under section 208;

[(B) in the second year for which funds are available under this title, the State will use funds for purposes consistent with the findings of the State assessment under section 208;

[(C) for programs described in section 206, the provisions of sections 210 and 211 will be carried out; and

[(D) to the extent feasible, evaluations of the program assisted under this title will be performed;

[(6) provide assurances that Federal funds made available under this title for any fiscal year will be so used as to supplement, and to the extent practicable, to increase the level of funds that would, in the absence of such Federal funds, be available from non-Federal sources for the purposes described in sections 206 and 207, and in no case supplant such funds from non-Federal sources; and

[(7) provide such fiscal control and accounting procedures as may be necessary (A) to ensure proper accounting of Federal funds paid to the applicant under this title, and (B) to ensure the verification of the programs assisted under the application.

[(c) The Secretary shall expeditiously approve any State plan that meets the requirements of this section.

[LOCAL EDUCATIONAL AGENCY ASSESSMENT

[Sec. 210. (a) Each local educational agency which desires to receive a payment from the State educational agency pursuant to

section 206 shall provide to the State educational agency an assessment of the local educational agency's need for assistance in—

[(1) teacher training, retraining, and inservice training and the training of appropriate school personnel in the areas of mathematics, science, foreign languages, and computer learning, including a description of the availability and qualifications of teachers in the areas of mathematics, science, foreign language, and computer learning, including the qualifications of teachers at the elementary level to teach in such areas;

[(2) improving instructional materials and equipment related to mathematics and science education; and

[(3) improving the access to instruction in mathematics, science, foreign languages, and computer learning of historically underserved and underrepresented individuals and of the gifted and talented, and an assessment of the current degree of access to such instruction of such individuals.

[(b) Such assessment shall also describe the types of services to be provided pursuant to the program assisted under section 206, a description of how the services assisted will meet the program needs of the local educational agency, and in the second year for which funds under this title are made available, a description of how the services assisted will address unmet needs described under section 208.

[(c) If a local educational agency determines, pursuant to section 206(b)(1), that the agency has met its teacher training, retraining, and inservice training needs in mathematics and science and desires to expend all or a portion of its funds on other activities prescribed in section 206(b)(1)(B), the local educational agency may request the State educational agency to waive such training requirements. If the State educational agency determines that the local educational agency has met such teacher training needs, the State educational agency shall grant the waiver.

[PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE SCHOOLS

[SEC. 211. (a) To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private nonprofit elementary and secondary schools, such State or agency shall, after consultation with appropriate private school representatives, make provisions for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this title.

[(b) To the extent consistent with the number of children in the State or in the school district of a local educational agency who are enrolled in private nonprofit elementary and secondary schools, such State, State educational agency, or State agency for higher education shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such inservice and teacher training and retraining as will assure equitable participation of such teachers in the purposes and benefits of this title.

[(c) If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation of

children or teachers from private nonprofit schools as required by subsections (a) and (b), of if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers which shall be subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice and judicial review requirements in accordance with sections 557(b) (3) and (4) of the Education Consolidation and Improvement Act of 1981.

[SECRETARY'S DISCRETIONARY FUND FOR PROGRAMS OF NATIONAL SIGNIFICANCE

[SEC. 212. (a) From the amount reserved by the Secretary under section 204(a)(2)(A), the Secretary is authorized to carry out directly, or through grants, cooperative agreements, or contracts, projects which are authorized by this section.

[(b)(1) From 75 per centum of the amount available under this section in each fiscal year, the Secretary shall make grants to and enter into cooperative agreements with State and local educational agencies, institutions of higher education, and private nonprofit organizations, including museums, libraries, educational television stations, and professional science, mathematics, and engineering societies and associations for programs of national significance in mathematics and science instruction, computer learning, and foreign language instruction in critical languages. The Secretary shall give special consideration to provide assistance to local educational agencies, or consortia thereof, to establish or improve magnet schools for gifted and talented students. In awarding of grants and cooperative agreements the Secretary shall give special consideration to local educational agencies, institutions of higher education, and private nonprofit organizations, including museums, libraries, educational television stations, and professional science, mathematics, and engineering societies and associations providing special services to historically underserved and underrepresented populations in the fields of mathematics and science.

[(2) The Secretary, from the amount available under paragraph (1) for each fiscal year, shall reserve not to exceed $3,000,000 in each such year for the Director of the National Institute of Education for the purpose of conducting evaluation and research activities. Such evaluation and research activities shall include—

[(A) a policy analysis of alternative methods to improve instruction in mathematics and science;

[(B) an annual evaluation of the programs assisted under this title; and

[(C) research on improving teacher training, retraining, inservice training, and retention, as well as the development of curriculum and materials in the fields of mathematics and science.

One-half of the funds reserved under this paragraph shall be used for the research activities described in clause (C).

[(c) From 25 per centum of the amount available in each fiscal year, the Secretary shall make grants to institutions of higher edu-

cation for the improvement and expansion of instruction in critical foreign languages.

[(d) In determining which languages are critical to national security, economic, and scientific needs, the Secretary shall consult with the Secretary of State, the Secretary of Defense, the Secretary of Health and Human Services, and the Director of the National Science Foundation. The Secretary shall publish in the Federal Register a list of critical foreign languages.

[PAYMENTS

[SEC. 213 (a) From the amounts appropriated under section 203(b), The Secretary shall pay, in accordance with the provisions of this title, the costs of the programs and activities described in the application approved under section 209, and the costs of programs of national significance under section 212.

[(b) Payments under this title shall be made as soon after approval of the application as practicable.]

TITLE II—EDUCATION FOR ECONOMIC SECURITY

STATEMENT OF PURPOSE

SEC. 201. It is the purpose of this title to make financial assistance available to State and local educational agencies, and to institutions of higher education, to improve the skills of teachers and instruction in mathematics, science, and computer learning, and to increase the access of all students to such instruction, and thereby contribute to strengthening the economic security of the United States.

DEFINITION

SEC. 202. As used in this title, the term "junior or community college" means an institution of higher education—

(1) that admits as regular students individuals who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

(2) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

(3) that—

(A) provides an educational program of not less than 2 years that is acceptable for full credit toward such a degree; or

(B) offers a 2-year program designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

PROGRAM AUTHORIZED

SEC. 203. (a) The Secretary is authorized to make grants to States and to make discretionary grants, in accordance with the provisions of this title, for strengthening the skills of teachers and instruction in mathematics, science, and computer learning.

(b) There are authorized to be appropriated $330,000,000 for the fiscal year 1989, $345,000,000 for fiscal year 1990, $365,000,000 for fiscal year 1991, $385,000,000 for fiscal year 1992, and $405,000,000 for fiscal year 1993 to carry out the provisions of this title.

ALLOTMENT TO STATES

SEC. 204. (a)(1) From 95 per centum of the amount appropriated to carry out this title for each fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such 95 per centum as the number of children aged 5 to 17, inclusive, in the State bears to the number of such children in all States, except that no State shall receive less than one-half of 1 per centum of the amount available under this subsection in any fiscal year.

(2)(A) The Secretary shall reserve 4 per centum of such amount to carry out section 211, relating to discretionary grants of national significance.

(B) The Secretary shall reserve the remaining 1 per centum to carry out the provisions of subsection (c).

(3) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(4) The number of children aged 5 to 17, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

(b) The amount of any State allotment under subsection (a) for any fiscal year to carry out this title which the Secretary determines will not be required for that fiscal year to carry out this title shall be available for reallotment from time to time, on such dates during that year as the Secretary may fix, to other States in proportion to the original allotments to those States under subsection (a) for that year but with such proportionate amount for any of those other States being reduced to the extent it exceeds the sum the Secretary estimates that States need and will be able to use for that year; and the total of those reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year shall be deemed as part of its allotment under subsection (a) for that year.

(c)(1) From the amount reserved for each fiscal year under subsection (a)(2)(B), the Secretary shall allot—

(A) not less than one-half of that amount to whatever agency the Secretary determines appropriate for programs authorized by this title for children in elementary and secondary schools operated for Indian Children by the Department of the Interior, and

(B) the remainder of that amount among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this title.

(2) The Secretary shall make payments under paragraph (1)(A) on whatever terms the Secretary determines will best carry out the purpose of this title.

IN-STATE APPORTIONMENT

SEC. 205. (a) For each fiscal year, 75 per centum of each State's allotment under section 204 of this title shall be used for elementary and secondary education programs in accordance with section 206.

(b) For each fiscal year, 25 per centum of each State's allomentunder section 204 of this title shall be used for higher education programs in accordance with section 207.

ELEMENTARY AND SECONDARY EDUCATION PROGRAMS

SEC. 206. (a) The amount apportioned under section 205(a) from each State's allotment under this title shall be used by the State educational agency to strengthen elementary and secondary education programs in accordance with the provisions of this section.

(b)(1) Not less than 90 per centum of the amount available under this section shall be distributed to local educational agencies within the State. Each local educational agency shall use funds distributed under this paragraph for—

(A) the expansion and improvement of training, inservice training, and retraining of teachers and other appropriate school personnel in the fields of mathematics and science, including vocational education teachers who use mathematics and science in the courses of study the teachers teach; or

(B) if the local educational agency determines that the agency has met its need for training, inservice training, and retraining under subparagraph (A), subject to the provisions of section 201(c), such training, inservice training, and retraining in the fields of computer learning, and the acquisition of instructional materials and equipment related to mathematics and science instruction.

Such training and instruction may be carried out through agreements with public agencies, private industry, institutions of higher education, and nonprofit organizations, including museums, libraries, educational television stations, professional science, mathematics and engineering associations, and other appropriate institutions. A local educational agency may carry out the activities authorized by this paragraph with one or more other local educational agencies within the State, or with the State educational agency, or both. Each local educational agency shall assure that programs of training, inservice training and retraining will take into account the need for greater access to and participation in mathematics, science, and computer learning programs and careers of students from historically underrepresented groups, including females, minorities, individuals with limited-English proficiency, the handicapped, and migrants.

(2)(A) The State educational agency shall distribute 50 per centum of the funds available under this subsection to local educational agencies according to the relative enrollments in public and private nonprofit schools within the district of such agencies. Such relative enrollments may be calculated, at the option of the State educational agency, on the basis of the total number of children enrolled in public schools and (i) private nonprofit schools, or (ii) private nonprofit schools desiring that their children and teachers participate in programs or projects assisted under this title. Nothing in the pre-

ceding sentence shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within their school districts in order to determine whether such schools desire that their children and teachers participate in programs or projects assisted under this title.

(B) The State educational agency shall distribute 50 per centum of the funds available under this subsection based on the relative number of children aged 5 to 17 who are from families below the poverty level as determined under section 1005(c)(2)(A) of this Act in the public schools of the local educational agencies within the State.

(3) The State educational agency shall renew payments to local educational agencies under this subsection based upon the criteria set forth in paragraph (2) of this subsection and a determination by the State educational agency that the local educational agency is implementing the program assisted under this title so that a substantial number of teachers in the public and private schools in the school district of such agency are served and several grade levels of instruction in such schools are involved in the program.

(c) Not less than 5 per centum of the amount available under this section shall be used by the State educational agency—

(1) demonstration and exemplary programs for teacher training and retraining and inservice upgrading of teacher skills in the fields of mathematics, science, and computer learning,

(2) demonstration and exemplary programs for instructional equipment and materials in such fields and necessary technical assistance,

(3) demonstration and exemplary programs for special projects for historically underrepresented and underserved populations and for gifted and talented students, and

(4) the dissemination of information to all local educational agencies within the State relating to the exemplary programs in the fields of mathematics, science, and computer learning.

In providing financial assistance for such demonstration and exemplary programs, the State educational agency shall give special consideration to special projects in mathematics, science, and computer education to historically underrepresented and underserved populations of students, including females, minorities, handicapped individuals, individuals with limited-English proficiency, and migrant students, and to programs for gifted and talented students. The programs for gifted and talented students may include assistance to magnet schools for such students.

(d) Not more than 5 per centum of the amount available under this section may be used by the State educational agency—

(1) to provide technical assistance to local educational agencies, institutions of higher education, and nonprofit organizations, including museums, libraries, and educational television stations, in the conduct of programs specified under subsection (b); and

(2) for the costs of administration and evaluation of the program assisted under this title.

HIGHER EDUCATION PROGRAMS

SEC. 207. (a) The amount apportioned under section 205(b) from each State's allotment under this title shall be used by the State agency for higher education for education programs in accordance with the provisions of this section.

(b)(1)(A) Not less than 95 per centum of the amount available for this section shall be used by the State agency for higher education for grants to institutions of higher education in accordance with the provisions of this subsection.

(B) The State agency for higher education shall make funds available on a competitive basis to institutions of higher education in the State which apply for payments under this section and which demonstrate involvement of local educational agencies. The State agency for higher education shall make every effort to ensure equitable participation of private and public institutions of higher education.

(2) The amount available under this subsection shall be used for—

(A) establishing traineeship programs for new teachers who will specialize in teaching mathematics and science at the secondary school level;

(B) retraining of secondary school teachers who specialize in disciplines other than the teaching of mathematics, science, or computer learning to specialize in the teaching of mathematics, science, or computer learning, including the provision of stipends for participation in institutes authorized under title I; and

(C) inservice training for elementary, secondary, and vocational school teachers and training for other appropriate school personnel to improve their teaching skills in the fields of mathematics, science, and computer learning, including stipends for participation in institutes authorized under title I.

Each institution of higher education receiving a grant under this subsection shall assure that programs of training, retraining, and inservice training will take into account the need for greater access to and participation in mathematics, science, and computer learning and careers of students from historically underrepresented and underserved groups, including females, minorities, individuals with limited-English proficiency, the handicapped, migrants, and the gifted and talented, and will insure cooperative agreements or cooperative arrangements with local educational agencies.

(3) No institution of higher education may receive assistance under paragraphs (2)(B) and (C) of this subsection unless the insitution enters into an agreement with a local educational agency, or consortium of such agencies, to provide inservice training and retraining for the elementary and secondary school teachers in the public and private schools of the school district of each such agency.

(c) The State agency for higher education may use funds described in subsection (b)(1)(A) for cooperative programs among institutions of higher education, local educational agencies, State educational agencies, private industry, and nonprofit organizations, including museums, libraries, educational television stations, and professional mathematics, science, and engineering societies and associations for the development and dissemination of projects designed to improve

student understanding and performance in science, mathematics, and computer learning.

(d) Not to exceed 5 per centum of the amount available under this section may be used by the State agency for higher education for—

(1) the State assessment required by section 208 of this title; and

(2) the costs of administration and evaluation of the program assisted under this title incurred by the State higher education agency.

STATE APPLICATION

SEC. 208. (a) Each State which desires to receive grants under this title shall file an application with the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) Each such application shall—

(1) designate the State educational agency for the purpose of programs described in section 206, and the State agency for higher education for programs described in section 207 as the agency or agencies reponsible for the administration and supervision of the programs described in sections 206 and 207, as the case may be;

(2) describe the programs for which assistance is sought under the application;

(3) provide assurances that payments will be distributed by the State in accordance with the provisions of sections 206 and 207, as the case may be;

(4) provide procedures—

(A) for submitting applications for programs described in sections 206 and 207 for distribution of payments under this title within the State, and

(B) for approval of applications by the appropriate State agency, including appropriate procedures to assure that the appropriate State agency will not disapprove an application without notice and opportunity for a hearing;

(5) provide assurances that—

(A) for programs described in section 206, the provisions of sections 210 and 211 will be carried out; and

(B) to the extent feasible, evaluations of the program assisted under this title will be performed;

(6) provide assurances that Federal funds made available under this title for any fiscal year will be so used as to supplement, and to the extent practicable, to increase the level of funds that would, in the absence of such Federal funds, be available from non-Federal sources for the purposes described in sections 206 and 207, and in no case supplant such funds from non-Federal sources; and

(7) provide such fiscal control and accounting procedures as may be necessary (A) to ensure proper accounting of Federal funds paid to the applicant under this title, and (B) to ensure the verification of the programs assisted under the application.

(c) The Secretary shall expeditiously approve any State plan that meets the requirements of this section.

LOCAL EDUCATIONAL AGENCY ASSESSMENT

SEC. 209. (a) Each local educational agency which desires to receive a payment from the State educational agency pursuant to section 206 shall provide to the State educational agency an assessment of the local educational agency's need for assistance in—

(1) teacher training, retraining, and inservice training and the training of appropriate school personnel in the areas of mathematics, science, and computer learning, including a description of the availability and qualifications of teachers in the areas of mathematics, science, and computer learning, including the qualifications of teachers at the elementary level to teach in such areas;

(2) improving instructional materials and equipment related to mathematics and science education; and

(3) improving the access to instruction in mathematics, science, and computer learning of historically underserved and underrepresented individuals and of the gifted and talented, and an assessment of the current degree of access to such instruction of such individuals.

(b) Such assessment shall also describe the types of services to be provided pursuant to the program assisted under section 206, a description of how the services assisted will meet the program needs of the local educational agency, and in the second year for which funds under this title are made available, a description of how the services assisted will address unmet needs described under section 208.

(c) If a local educational agency determines, pursuant to section 206(b)(1), that the agency has met its teacher training, retraining, and inservice training needs in mathematics and science and desires to expend all or a portion of its funds on other activities prescribed in section 206(b)(1)(B), the local educational agency may request the State educational agency to waive such training requirements. If the State educational agency determines that the local educational agency has met teacher training needs, the State educational agency shall grant the waiver.

PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE SCHOOLS

SEC. 210. (a) To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private nonprofit elementary and secondary schools, such State or agency shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this title.

(b) To the extent consistent with the number of children in the State or in the school district of a local educational agency who are enrolled in private nonprofit elementary and secondary schools, such State, State educational agency, or State agency for higher education shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such inservice and teacher training and retraining as

will assure equitable participation of such teachers in the purposes and benefits of this title.

(c) If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers which shall be subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with sections 577(b) (3) and (4) of the Education Consolidation and Improvement Act of 1981.

SECRETARY'S DISCRETIONARY FUND FOR PROGRAMS OF NATIONAL SIGNIFICANCE

SEC. 211. (a) From the amount reserved by the Secretary under section 204(a)(2)(A), the Secretary is authorized to carry out directly, or through grants, cooperative agreements, or contracts, projects which are authorized by this section.

(b)(1) From amounts available under this section in each fiscal year, the Secretary shall make grants to and enter into cooperative agreements with State and local educational agencies, institutions of higher education, and private nonprofit organizations, including museums, libraries, educational television stations, and professional science, mathematics, and engineering societies and associations for programs of national significance in mathematics and science instruction, computer learning, and foreign language instruction in critical languages. The Secretary shall give special consideration to provide assistance to local educational agencies, or consortia thereof, to establish or improve magnet schools for gifted and talented students. In awarding of grants and cooperative agreements the Secretary shall give special consideration to local educational agencies, institutions of higher education, and private nonprofit organizations, including museums, libraries, educational television stations, and professional science, mathematics, and engineering societies and associations providing special services to historically underserved and underrepresented populations in the fields of mathematics and science.

(2) The Secretary, from the amount available under paragraph (1) for each fiscal year, shall reserve not to exceed $3,000,000 in each such year for the Director of the National Institute of Education for the purpose of conducting evaluation and research activities. Such evaluation and research activities shall include—

(A) a policy analysis of alternative methods to improve instruction in mathematics and science;

(B) an annual evaluation of the programs assisted under this title; and

(C) research on improving teacher training, retraining, inservice training, and retention, as well as the development of curriculum and materials in the fields of mathematics and science.

(c) In determining which languages are critical to national security, economic, and scientific needs, the Secretary shall consult with the Secretary of State, the Secretary of Defense, the Secretary of Health and Human Services, and the Director of the National Science Foundation. The Secretary shall publish in the Federal Register a list of critical foreign languages.

PAYMENTS

SEC. 212. (a) From the amounts appropriated under section 203(b), the Secretary shall pay, in accordance with the provisions of this title, the costs of the programs and activities described in the application approved under section 209, and the costs of programs of national significance under section 212.

(b) Payments under this title shall be made as soon after approval of the applicaton as practical.

TITLE III—NATIONAL SCIENCE FOUNDATION PROGRAM FOR PARTNERSHIPS IN EDUCATION FOR MATHEMATICS, SCIENCE, AND ENGINEERING

SHORT TITLE

SEC. 301. This title may be cited as the "Partnerships in Education for Mathematics, Science, and Engineering Act".

STATEMENT OF PURPOSE

SEC. 302. It is the purpose of this title to supplement State and local resources to—

(1) improve the quality of instruction in the fields of mathematics, science, and engineering in the State;

(2) furnish additional resources and support for research, student scholarships, and faculty exchange programs in the fields of mathematics, science, and engineering; and

(3) encourage partnerships in education between the business community, institutions of higher education, and elementary and secondary schools in the community.

DEFINITIONS

SEC. 303. As used in this title—

(1) the term "applicant" means with respect to activities described in section 305(a) an institution of higher education and the other participants described in paragraph (3) of section 305(a), and with respect to activities described in section 305(b) a local educational agency and the other participants described in paragraph (3) of section 305(b);

(2) the term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials; and meaning given

that term by section 1201(a) of the Higher Education Act of 1965;

(3) the term "State agency for higher education" means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

PROGRAM AUTHORIZED

SEC. 304. (a) The Secretary is authorized, in accordance with the provisions of this title, to make grants to applicants to pay the Federal share of the costs of the activities described in section 305.

(b) There are authorized to be appropriated $50,000,000 for each of the fiscal years 1986, [1987, and 1988,] *1987, and $20,000,000 for the fiscal year 1988 and such sums as may be necessary for each of the suceeding fiscal years ending prior to October 1, 1993,* to carry out the provisions of this title.

* * * * * * *

[TITLE IV—PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN MATHEMATICS AND SCIENCE]

TITLE IV—PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN MATHEMATICS AND SCIENCE AND IN FOREIGN LANGUAGES

PRESIDENTIAL AWARDS

SEC. 401. (a)*(1)* The President is authorized to make Presidential Awards for Teaching Excellence in Mathematics and Science to elementary and secondary school teachers of mathematics or science who have demonstrated outstanding teaching qualifications in the field of teaching mathematics or science.

(2) The President is authorized to make Presidential awards for teaching excellence in foreign languages to elementary and secondary school teachers of foreign languages who have demonstrated outstanding teaching qualifications in the field of teaching foreign languages.

(b) Each year the President is authorized to make [one hundred awards under subsection (a) of this section] *104 awards under paragraph (1) of sucsection (a) of this section, and 104 awards under paragraph (2) subsection (a) of this section.* In selecting elementary and secondary school teachers for the award authorized by this section, the President shall select at least one elementary school teacher and one secondary school teacher from each of the several States, the Distict of Columbia, and the Commonwealth of Puerto Rico.

ADMINISTRATIVE PROVISIONS

SEC. 402. The President shall carry out the provisions of this title, including the establishment of the selection procedures, after consultation with the Secretary of Education, the Director of the National Science Foundation, and other appropriate officials of Federal agencies.

SEC. 403. (a)(*1*) Funds to carry out this title for any fiscal year shall be made available from amounts appropriated pursuant to annual authorizations of appropriations for the National Science Foundation for Science and Engineering Education. For fiscal year 1986, funds to carry out this title shall be available from amounts authorized by section 102(a)(8) of the National Science Foundation Authorization Act for fiscal year 1986. Not more than $1,000,000 are authorized to be available to carry out this title.

(b) Amounts appropriated pursuant to subsection (a) and amounts made available under subsection (a) shall be available for making awards under this title, for administrative expenses, for necessary travel by teachers selected under this title, and for special activities related to carrying out the provisions of this title.

(2) There are authorized to be appropriated $1,000,000 to carry out the provisions of paragraph (2) of section 401(a).

* * * * * * *

TITLE VI—EXCELLENCE IN EDUCATION PROGRAM—*[REPEALED]*

* * * * * * *

TITLE VII—MAGNET SCHOOLS ASSISTANCE—*[REPEALED]*

* * * * * * *

"TITLE IX—STAR SCHOOLS PROGRAM

SHORT TITLE

SEC. 901. This title may be cited as the "Star Schools Program Assistance Act".

STATEMENT OF PURPOSE

SEC. 902. It is the purpose of this title to encourage improved instruction in mathematics, science, and foreign languages through a star schools program under which demonstration grants are made to eligible telecommunications partnerships to enable such eligible telecommunications partnerships to develop, construct, and acquire telecommunications audio and visual facilities and equipment, to develop and acquire instructional programming, and obtain technical assistance for the use of such facilities and instructional programming.

PROGRAM AUTHORIZED

SEC. 903. (a) GENERAL AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this title, to make grants to eligible telecommunications partnerships to develop, construct, and acquire telecommunications facilities and equipment, to develop and acquire instructional programming, and for technical assistance.

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated $100,000,000 for the period beginning October 1, 1988, and ending September 30, 1992.

(2) No appropriation in excess of $60,000,000 may be made in any fiscal year pursuant to paragraph (1) of this subsection.

(c) LIMITATIONS.—(1)(A) A demonstration grant made to an eligible telecommunications partnership under this title may not exceed $10,000,000.

(B) An eligible telecommunications partnership may receive a grant for a second year under this title, but in no event may such a partnership receive more than $20,000,000.

(2) Not less than 25 percent of the funds available in any fiscal year under this Act shall be used for the cost of instructional programming.

(3) Not less than 50 percent of the funds available in any fiscal year under this Act shall be used for the cost of facilities, equipment, teacher training or retraining, technical assistance, or programming, for local educational agencies which are eligible to receive assistance under chapter 1 of title I of this Act.

ELIGILE TELECOMMUNICATIONS PARTNERSHIPS

SEC. 904. (a) GENERAL RULE.—In order to be eligible for demonstration grants under this title, an eligible telecommunications partnership shall consist of—

(1) a public agency or corporation established for the purpose of developing and operating telecommunications networks to enhance educational opportunities provided by educational institutions, teacher training center, health institutions, and industry, except that any such agency or corporation shall contain representation of the interests of elementary and secondary schools which are eligible to participate in the program under chapter 1 of title I of this Act; or

(2) a partnership which includes three or more of the following which will provide a telecommunications network:

(A) a local educational agency, which has a significant number of elementary and secondary schools which are eligible for assistance under chapter 1 of title I of this Act or elementary and secondary schools operated for Indian children by the Department of the Interior eligible under section 1005(d) of this Act,

(B) a State educational agency,

(C) an institution of higher education,

(D) a teacher training center, or

(E)(i) a public agency with experience or expertise in the planning or operation of a telecommunications network,

(ii) a private organization with such experience, or

(iii) a public broadcasting entity with such experience.

(b) SPECIAL RULE.—An eligible telecommunications partnership must be organized on a statewide or multistate basis.

APPLICATIONS

SEC. 905. (a) APPLICATION REQUIRED.—Each eligible telecommunications partnership which desires to receive a demonstration grant under this title may submit an application to the Secretary, at such time, in such a manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) CONTENTS OF APPLICATION.—Each such application shall—

(1) describe the telecommunications facilities and equipment and technical assistance for which assistance is sought which may include—

(A) the design, development, construction, and acquisition of State or multistate educational telecommunications networks and technology resource centers;

(B) microwave, fiber optics, cable, and satellite transmission equipment;

(C) reception facilities;

(D) satellite time;

(E) production facilities;

(F) other telecommunications equipment capable of serving a wide geographic area;

(G) the provision of training services to elementary and secondary school teachers (particularly teachers in schools receiving assistance under chapter 1 of title I of this Act in using the facilities and equipment for which assistance is sought; and

(H) the development of educational programming for use on a telecommunications network;

(2) describe, in the case of an application for assistance for instructional programming, the types of programming which will be developed to enhance instruction and training;

(3) demonstrate that the eligible telecommunications partnership has engaged in sufficient survey and analysis of the area to be served to ensure that the services offered by the telecommunications partnership will increase the availability of courses of instruction in mathematics, science, and foreign languages;

(4) describe the teacher training policies to be implemented to ensure the effective use of the telecommunications facilities and equipment for which assistance is sought;

(5) provide assurances that the financial interest of the United States in the telecommunications facilities and equipment will be protected for the useful life of such facilities and equipment;

(6) provide assurances that a significant portion of the facilities, equipment, technical assistance, and programming for which assistance is sought will be made available to elementary and secondary schools of local educational agencies which have a high percentage of children counted for the purpose of chapter 1 title I of this Act;

(7) describe the manner in which traditionally underserved students will participate in the benefits of the telecommunciations facilities, equipment, technical assistance, and programming assisted under this Act; and

(8) provide such additional assurances as the Secretary may reasonably require.

(c) APPROVAL OF APPLICATION; PRIORITY.—The Secretary shall, in approving applications under this title, give priority to applications which demonstrate that—

(1) a concentration and quality of mathematics, science, and foreign language resources which, by their distribution through the eligible telecommunications partnership, will offer signifi-

cant new educational opportunities to network participants, particularly to tranditionally underserved populations and areas with scarce resources and limited access to courses in mathematics, science, and foreign languages;

(2) the eligible telecommunications partnership has secured the direct cooperation and involvement of public and private educational institutions, State and local government, and industry in planning the network;

(3) the eligible telecommunications partnership will serve the broadest range of institutions, including public and private elementary and secondary schools (particularly schools having significant numbers of children counted for the purpose of chapter 1 of title I of this Act, programs providing instruction outside of the school setting, institutions of higher education, teacher training centers, research institutes, and private industry;

(4) a significant number of educational institutions have agreed to participate or will participate in the use of the telecommunications system for which assistance is sought;

(5) the eligible telecommunications partnership will have substantial academic and teaching capabilities including the capability of training, retraining, and inservice upgrading of teaching skills;

(6) the eligible telecommunications partnership will serve a multistate area; and

(7) the eligible telecommunications partnership will, in providing services with assistance sought under this Act, meet the needs of groups of individuals traditionally excluded from careers in mathematics and science because of discrimination, inaccessibility, or economically disadvantaged backgrounds.

(d) GEOGRAPHIC DISTRIBUTION.—In approving applications under this title, the Secretary shall assure an equitable geographic distribution of grants.

DISSEMINATION OF COURSES AND MATERIALS UNDER THE STAR SCHOOLS PROGRAM

SEC. 906. (a) REPORT.—Each eligible telecommunications partnership awarded a grant under this Act shall report to the Secretary a listing and description of available courses of instruction and materials to be offered by educational institutions and teacher training centers which will be transmitted over satellite, specifying the satellite on which such transmission will occur and the time of such transmission.

(b) DISSEMINATION OF COURSES OF INSTRUCTION.—The Secretary shall compile and prepare for dissemination a listing and description of available courses of instruction and materials to be offered by educational institutions and teacher training centers equipped with satellite transmission capabilities, as reported to the Secretary under subsection (a) of this section.

(c) DISSEMINATION TO STATE EDUCATION AGENCIES.—The Secretary shall distribute the list required by subsection (b) of this section to all State educational agencies.

EVALUATION

SEC. 907. (a) EVALUATION.—The Office of Technology Assessment may, upon request, beginning after September 30, 1987, conduct a thorough evaluation of the use of the telecommunications systems supported by grants made under this title.

(b) REPORTS.—The Office of Technology Assessment shall, after a request made under subsection (a), prepare and submit a report to the Congress, on the evaluation authorized by this subsection.

STUDY OF FEASIBILITY OF AN EDUCATIONAL SATELLITE

SEC. 908. (a) EVALUATION.—The Office of Technology Assessment may, upon request, conduct a study and evaluation of the cost of designing, building, and launching a satellite for educational purposes, together with an analysis of—

(1) the demand for the use of a satellite for educational purposes; and

(2) the ability of users of such a system to repay the cost of such a satellite.

(b) NOTIFICATION.—If the Office of Technology Assessment finds, after a study and evaluation conducted under subsection (a), that the cost entailed in designing, building, and launching, such a satellite could be repaid within 10 years by the potential users of such a satellite, the Office of Technology Assessment shall notify the Congress of its findings.

DEFINITIONS

SEC. 909. As used in this title—

(1) the term "educational institution" means an institution of higher education, a local educational agency, and a State educational agency;

(2) the term "institution of higher education" has the same meaning given that term under section 1201(a) of the Higher Education Act of 1965;

(3) the term "local educational agency" has the same meaning given that term under section 1471(10) of this Act;

(4) the term "instructional programming" means courses of instruction, and training courses, and materials for use in such instruction and training which have been prepared in audio and visual form on tape, disc, film, or live, and presented by means of telecommunications devices;

(5) the term "public broadcasting entity" has the same meaning given that term in section 397 of the Communications Act of 1934;

(6) the term "Secretary" means the Secretary of Education;

(7) the term "State educational agency" has the same meaning given that term under section 1471(16) of this Act; and

(8) the term "State means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

Elementary and Secondary Education Act of 1965

TITLE I—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF CHILDREN

* * * * * * *

TITLE IX—ADDITIONAL PROGRAMS

[Repealed, except for part C, August 13, 1981, P.L. 97-35, sec. 587(a), 95 Stat. 480.]

PART C—WOMEN'S EDUCATIONAL EQUITY [*REPEALED*]

* * * * * * *

Adult Education Act

TITLE III—ADULT EDUCATION [1]

SHORT TITLE

SEC. 301. This title may be cited as the "Adult Education Act".

STATEMENT OF PURPOSE

SEC. 302. It is the purpose of this title to expand educational opportunities for adults and to encourage the establishment of programs of adult education that will—

(1) enable all adults to acquire basic literacy skills necessary to function in society,

(2) enable adults who so desire to continue their education to at least the level of completion of secondary school, and

(3) to make available to adults the means to secure training and education that will enable them to become more employable, productive, and responsible citizens.

DEFINITIONS

SEC. 303. As used in this title—

(a) The term "adult" means an individual who has attained 16 years of age or who is beyond the age of compulsory school attendance under State law, [except that for the purpose of section 305(a), the term "adult" means an individual 16 years of age or older].

(b) The term "adult education" means instruction or services below the college level for adults *WHO ARE NOT ENROLLED IN A SECONDARY SCHOOL AND* who do not have—

(1) the baisc skills to enable them to function effectively in society; or

(2) a certificate of graduation from a school providing secondary education (and who have not achieved an equivalent level of education).

(c) The term "adult basic education" means adult education for adults whose inability to speak, read, or write the English language constitutes a substantial impairment of their ability to get or

---

[1] The Adult Education Act was enacted as Title III of the Elementary and Secondary Education Act of 1966.

retain employment commensurate with their real ability, which is designed to help eliminate such inability and raise the level of education of such individuals with a view to making them less likely to become dependent on others, to improving their ability to benefit from occupational training and otherwise increasing their opportunities for more productive and profitable employment, and to making them better able to meet their adult responsibilities.

(d) The term "Secretary" means the Secretary of Education.

(e) The term "community school program" is a program in which a public building, including but not limited to a public elementary or secondary school or a community or junior college, is used as a community center operated in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, cultural and other related community services for the community that center serves in accordance with the needs, interest, and concerns of that community.

(f) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, except that, if there is a separate board or other legally constituted local authority having administrative control and direction of adult education in public schools therein, such term means such other board or authority.

(g) The term "State" includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(h) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or if there is a separate State agency or officer primarily responsible for supervision of adult education in public schools then such agency or officer may be designated for the purpose of this title by the Governor or by State law. If no agency or officer qualifies under the preceding sentence, such term shall mean an appropriate agency or officer designated for the purposes of this title by the Governor.

(i) The term "academic education" means the theoretical, the liberal, the speculative, and classical subject matter found to compose the curriculum of the public secondary school.

(j) The term "institution of higher education" means any such institution as defined by section 481 of the Higher Education Act of 1965.

(k) The term "community-based organization" has the meaning given such term in section 4(5) of the Job Training Partnership Act (21 U.S.C. 1501 et seq.).

(l) The term "private industry council" means the private industry council established under section 102 of the Job Training Partnership Act (21 U.S.C. 1501 et seq.).

(m) The term "individual of limited English proficiency" means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language and—

(1) whose native language is a language other than English; or

(2) who lives in a family or community environment where a language other than English is the dominant language.

(n) The term 'out-of-school youth' means an individual who is under 16 years of age and beyond the age of compulsory school attendance under State law who has not completed high school or the equivalent.

(o) The term 'English literacy program' means a program of instruction designed to help limited English proficient adults, out-of-school youths, or both, achieve full competence in the English language.

(p) The term "community-based organization" means a private organization which is representative of a community or significant segments of a community and which provides education, vocational education, job training, or internship services and programs and includes neighborhood groups and organizations, community action agencies, community development corporations, union-related organizations, employer-related organizations, tribal governments, and organizations serving Native Alaskans and Indians.

GRANTS TO STATES FOR ADULT EDUCATION

SEC. 304. (a)(1) The Secretary is authorized to make grants to States, which have State plans approved by him under section 306 for the purposes of this section, to pay the Federal share of the cost of (A) the establishment or expansion of adult basic education programs to be carried out by local educational agencies and by public or private agencies, organizations, and institutions, and (B) the establishment or expansion of adult education programs to be carried out by local educational agencies and by public or private agencies, organizations, and institutions. Grants provided under this section to States to cary out the programs described in the preceding sentence may be carried out by public or private agencies, organizations, and institutions only if the applicable local educational agency has been consulted with and has had an opportunity to comment on the application of such agency, organization, or institution. The State educational agency shall not approve any application unless assured that such consultation has taken place. Such application shall contain a description of the cooperative arrangements that have been made to deliver services to adult students.

(2) Grants provided under this section may not be used to carry out programs by a for-profit agency, organization, or institution unless such agency, organization, or institution (A) can make a significant contribution to attaining the objectives of this Act, and (B) can provide substantially equivalent education at a lesser cost or can provide services and equipment not available in public isntitutions. Whenever the establishment or expansion of programs is carried out by a for-profit agency, organization, or institution, the State educational agency or eligible applicant shall enter into a

contract with such agency, organization, or institution, for the establishment or expansion of such programs.

[(b) Not more than 20 per centum of the funds granted to any State under subsection (a) for any fiscal year shall be used for the education of institutionalized individuals.]

(b) Not less than 10 per centum of the funds paid to a State under subsection (a) shall be used for corrections education and education for other institutionalized individuals in accordance with section 316.

ALLOTMENT FOR ADULT EDUCATION

SEC. 305. (a) Subject to the last sentence of this subsection, from the sums available for purposes of section [304(b)] *304(a)* for the fiscal year ending June 30, 1972, and for any succeeding fiscal year, the Secretary shall allot (1) $100,000 each to Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands according to their respective needs for assistance under such section, and (2) $250,000 to each State. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of adults who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools in such State bears to the number of such adults in all States. No State shall be allotted in any fiscal year beginning after September 30, 1984, an amount less than that State received for fiscal year 1984.

(b) The portion of any State's allotment under section (a) for a fiscal year which the Secretary determines will not be required, for the period of such allotment is available for carrying out the State plan approved under this title shall be available for reallotment from time to time, on such dates during such period as the Secretary shall fix, to other States in proportion to the original allotments to such States under subsection (a) for such year, but with such proportionate amount for any of such other State being reduced to the extent it exceeds the sum which the Secretary estimates such State needs and will be able to use for such period for carrying out its State plan approved under this title, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount allotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

STATE PLANS

SEC. 306. (a) A State shall be eligible to receive its allotment under section 305 if—

(1) it has on file with the Secretary a general State application under section 435 of the General Education Provisions Act, and

(2) it has submitted to the Secretary at such times (not more frequently than one every three years), and in such detail, as the Secretary shall prescribe a State plan meeting the requirements of subsection (b).

(b) A State plan under this title shall—

(1) set forth a program for the use of funds provided under this title to carry out the purposes stated in section 302 with respect to all segments of the adult population in the State, including residents of rural areas, residents of urban areas with high rates of unemployment, adults with limited English language skills [and institutionalized adults] *together with the program for the use of funds under section 716 for corrections education and education for other institutionalized individuals;*

(2) provide for the administration of the program by the State educational agency;

(3) describe the procedures the State will use to ensure that in carrying out such program there will be adequate consultation, cooperation, and coordination among the State educational agency, State manpower service councils, State occupational information systems, and other agencies, organizations, and institutions in the State which operate employment and training programs or other educational or training programs for adults; and for coordination of programs carried on under this title with other programs, including reading improvement programs, designed to provide reading instruction for adults carried on by State and local agencies;

(4) identify (A) the needs of the population of the State for services authorized under this title, (B) the other resources in the State available to meet those needs, and (C) the goals the State will seek to achieve in meeting those needs over the period covered by the plan;

(5) provide that such agency will make available not to exceed 20 per centum of the State's allotment for programs of equivalency for a certificate of graduation from a secondary school;

(6) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid the State under this title (including such funds paid by the State to local educational agencies and public or private nonprofit agencies, organizations, and institutions);

(7) describe the means by which the delivery of adult education services will be significantly expanded through the use of agencies, institutions, and organizations other than the public school systems, such as business, labor unions, libraries, institutions of higher education, public health authorities, antipoverty programs, and community organizations;

(8) describe the means by which representatives of business and industry, labor unions, public and private educational agencies and institutions, churches, fraternal and voluntary organizations, community organizations, State and local manpower and training agencies, and representatives of special adult populations, including residents of rural areas, residents of urban areas with high rate of unemployment, adults with limited English language skills, and institutionalized adults, and other entities in the State concerned with adult education have been involved in the development of the plan and will continue to be involved in carrying out the plan, especially with regard to the expansion of the delivery of adult education

services through those agencies, institutions, and organizations;

(9) describe the efforts to be undertaken by the State to assist adult participation in adult education programs through flexible course schedules, convenient locations, adequate transportation, and meeting child care needs;

(10) provide that special emphasis be given to adult basic education programs except where such needs are shown to have been met in the State;

(11) provide that special assistance be given to the needs of persons with limited English proficiency (as defined in section 703(a) of title VII of the Elementary and Secondary Education Act of 1965) [by providing a bilingual adult education program of instruction in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, carried out in coordination with programs of bilingual education assisted under title VII and bilingual vocational education programs under the Carl D. Perkins Vocational Education Act];

(12) demonstrate that the special educational needs of adult immigrants in the State have been examined, and provide for the implementation of adult education and adult basic education programs for immigrants to meet existing needs;

(13) set forth the criteria by which the State will evaluate the quality of proposals from local agencies, organizations, and institutions;

(14) provide such further information about the State's adult education students, programs, expenditures, and goals as the Secretary may require, together with information with respect to the age, sex, and race of students in the programs assisted under this Act and whether the students complete such programs; and

(15) provide such further assurances and information as the Secretary may require.

(c) The Secretary shall not finally disapprove any State plan submitted under this title, or any modification thereof, without first affording the State educational agency reasonable notice and opportunity for a hearing.

(d) Programs conducted under subsection (b)(11) shall be designed to teach English to limited English proficient adults and, as appropriate, to allow such adults to progress effectively through the adult education program or to prepare them to enter the regular program of adult education as quickly as possible. Such programs may provide instruction in the native language, to the extent necessary, or may provide instruction exclusively in English, and shall be carried out in coordination with programs assisted under the Bilingual Education Act and with bilingual vocational education programs under the Carl D. Perkins Vocational Education Act.

PAYMENTS

SEC. 307. (a) The Federal share of expenditures to carry out a State plan shall be paid from a State's allotment available for grants to that State. The Federal share shall be [90 per centum]

75 per centum of the cost of carrying out the State's programs, except that with respect to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the Federal share shall be 100 per centum.

(b)(1) No payment shall be made to any State from its allotment for any fiscal year unless the Secretary finds that the fical effort per student or the amount available for expenditure by such State for adult education from non-Federal sources for the preceding fiscal year was not less than *90 per centum of* such fiscal effort per student or such amount available for expenditure for such purposes from such sources during the second preceding fiscal year, but no State shall be required to use its funds to supplant any portion of the Federal share.

(2) The Secretary may waive, for one fiscal year only, the requirements of paragraph (1) of this subsection, if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State educational agency.

(c) Effective for fiscal years beginning after September 30, 1990, a State educational agency may use no more than 5 per centum of the State's grant or $50,000, whichever is greater, to pay the cost of its administration of the State's program.

ADMINISTRATION OF STATE PLANS

SEC. 308. Whenever the Secretary has reason to believe that, in administering its State plan, a State has failed to comply substantially with any provision of that State plan, the Secretary may take appropriate action under sections 453 and 454 of the General Education Provisions Act.

RESEARCH, DEVELOPMENT, DEMONSTRATION, DISSEMINATION, AND EVALUATION

SEC. 309. (a)(1) The Secretary shall, with funds set aside under section 314(b), support applied research, development, demonstration, dissemination, evaluation, and related activities which will contribute to the improvement and expansion of adult education in the United States. The activities required by this subsection may include—

(A) improving adult education opportunities for elderly individuals and adult immigrants,

(B) evaluating educational technology and computer software suitable for providing instruction to adults, and

(C) supporting exemplary cooperative adult education programs which combine the resources of businesses, schools and community organizations.

(2)(A) The Secretary may support such activities directly, or through grants to, or contracts or cooperative agreements with, public or private institutions, agencies, or organizations, or individuals, including business concerns.

(B) Whenever the Secretary makes a grant or enters into a contract or cooperative agreement with any private for-profit institution, agency, organization, individual, or business concern, the Sec-

retary shall assure that participants in the program assisted under this subsection are not charged for their participation.

(b) In addition to the responsibilities of the Director under section 405 of the General Education Provisions Act, the Director of the National Institute of Education may, with funds available under that section or with funds set aside under section 314(b) of this Act, support research on the special needs of individuals requiring adult education. The Director may support such research directly, or through grants to, or contracts or cooperative agreements with, public or private institutions, agencies, or organizations, or individuals.

SEC. 309A. [Repealed by P.L. 95-561, sec. 1307(a)(2), 92 Stat. 2359.]

USE OF FUNDS FOR SPECIAL EXPERIMENTAL DEMONSTRATION PROJECTS AND TEACHER TRAINING

SEC. 310. Of the funds allotted to a State under section 305 for a fiscal year, not less than 10 per centum shall be used for—

(1) special projects which will be carried out in furtherance of the purposes of this title, and which—

(A) involve the use of innovative methods, including methods for educating persons of limited English-speaking ability, systems, materials, or programs which may have national significance or be of special value in promoting effective programs under this title, or

(B) involve programs of adult education, including education for persons of limited English-speaking ability, which are part of community school programs, carried out in cooperation with other Federal, federally assisted, State or local programs which have unusaul promise in promoting a comprehensive or coordinated approach to the problems of persons with educational deficiencies; and

(2) training persons engaged, or preparing to engage, as personnel in programs designed to carry out the purposes of this title.

SPECIAL PROJECTS FOR THE ELDERLY

SEC. 311 [Repealed Oct. 19, 1984, P.L. 98-511, sec. 109(a), 98 Stat. 2369.]

SEC. 311. Any State may use funds granted under section 304 to support a State advisory council which assists the State educational agency to plan, implement, or evaluate programs or activities as assisted under this Act.

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

SEC. 312. [*Repealed.*]

LIMITATION

SEC. 313. No grant may be made under this title for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For purposes of this section, the term "school or department of divinity" means an institution or a department of branch of an institution whose program is specifically for the education of stu-

dents to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

APPROPRIATIONS AUTHORIZED

[SEC. 314. (a) For the purpose of carrying out this title there are authorized to be appropriated $140,000,000 for fiscal year 1985 and such sums as may be necessary for each of the three succeeding fiscal years.

[(b)(1) From the amount appropriated pursuant to subsection (a) for any fiscal year the Secretary may set aside not to exceed 5 per centum of that amount for programs under section 309. The remainder of the amount appropriated in each fiscal year shall be available for grants made under section 304.

[(2) No set aside may be made pursuant to paragraph (1) of this subsection in any fiscal year in which the amount appropriated pursuant to subsection (a) of this section is less than $112,000,000.]

"SEC. 314. (a) For the purpose of carrying out this title, other than section 309, there are authorized to be appropriated $200,000,000 for the fiscal year 1989, $210,000,000 for the fiscal year 1990. $225,000,000 for the fiscal year 1991, $235,000,000 for the fiscal year 1992, and $245,000,000 for the fiscal year 1993.

"(b) For the purpose of carrying out section 309 there are authorized to be appropriated $2,000,000 for fiscal year 1989 and for each of the succeeding fiscal years ending prior to October 1, 1993.

IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS

SEC. 315. (a) The Secretary shall carry out a program of making grants to State and local educational agencies, and to Indian tribes, institutions, and organizations, to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for providing adult education for Indians—

(1) to support planning, pilot, and demonstration projects which are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

(2) to assist in the establishment and operation of programs which are designed to stimulate (A) the provision of basic literacy opportunities to all nonliterate Indian adults, and (B) the provision of opportunities to all Indian adults to qualify for a high school equivalency certificate in the shortest period of time feasible.

(3) to support a major research and development program to develop more innovative and effective techniques for achieving the literacy and high school equivalency goals;

(4) to provide for basic surveys and evaluation thereof to define accurately the extent of the problems of illiteracy and lack of high school completion among Indians;

(5) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian adults;

(b) The Secretary is also authorized to make grants to Indian tribes, Indian institutions, and Indian organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

(c) The Secretary is also authorized to make grants to, and contracts with, public agencies, and institutions, and Indian tribes, institutions, and organizations for—

(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations thereof; and

(2) the evaluation of the effectiveness of federally assisted programs in which Indian adults may participate in achieving the purposes of such programs with respect to such adults.

(d) Applications for a grant under this section shall be submitted at such time, in such manner, and contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Secretary. Such applications shall—

(1) set forth a statement describing the activities for which assistance is sought;

(2) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Secretary shall not approve an application for a grant under subsection (a) unless he is satisfied that such application, and any documents submitted with respect thereto, indicate that there has been adequate participation by the individuals to be served and tribal communities in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project. In approving applications under subsection (a), the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

(e) For the purpose of making grants under this section there are hereby authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, and $8,000,000 for each of the succeeding fiscal years ending prior to October 1, 1986. There is authorized to be appropriated for such purpose for each of the fiscal years 1987, 1988, and 1989, an amount not to exceed the amount appropriated for such purpose for fiscal year 1986.

PROGRAMS FOR CORRECTIONS EDUCATION AND EDUCATION FOR OTHER INSTITUTIONALIZED INDIVIDUALS

SEC. 316. Funds set aside under section 304(b) by a State shall be used for the cost of educational programs for criminal offenders in corrections institutions and for other institutionalized individuals, including—

(1) academic programs for—

(A) basic education with special emphasis on reading, writing, vocabulary, and arithmetic;

(B) special education programs as defined by State law;

(C) bilingual or English as a second language programs; and

(D) secondary school credit programs;

(2) vocational training programs;

(3) library development and library service programs;

(4) for corrections education programs, training for teacher personnel specializing in corrections education, particularly courses in social education, basic skills instruction, and abnormal psychology;

(5) guidance and counseling programs;

(6) supportive services for criminal offenders, with special emphasis on the coordination of educational services with agencies furnishing services to criminal offenders after their release; and

(7) cooperative programs with educational institutions, community-based organizations of demonstrated effectiveness, and the private sector, designed to provide education and training.

(b) As used in this section, the term—

(1) "criminal offender" means any individual who is charged with or convicted of any criminal offense; and

(2) "correctional institution" means any—

(A) prison,

(B) jail,

(C) reformatory,

(D) work farm,

(E) detention center, or

(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

BUSINESS, INDUSTRY, LABOR, AND EDUCATION PARTNERSHIPS FOR WORKPLACE LITERACY

SEC. 317. (a) GRANTS FOR EXEMPLARY DEMONSTRATION PARTNERSHIPS FOR WORKPLACE LITERACY.—(1) Subject to subsection (b), the Secretary may make demonstration grants to exemplary education partnerships for workplace literacy to pay the Federal share of the cost of adult education programs which teach literacy skills needed in the workplace through partnerships between—

(A) business, industry, or labor organizations, or private industry councils; and

(B) State educational agencies, local educational agencies, institutions of higher education, or schools (including employment and training agencies or community-based organizations).

(2) Grants under paragraph (1) may be used—

(A) to fund 70 percent of the cost of programs which meet the requirements of paragraph (3); and

(B) for administrative costs incurred by State educational agencies and local educational agencies in establishing programs funded under subparagraph (A).

(3) Programs funded under paragraph (2)(A) shall be designed to improve the productivity of the workforce through improvement of literacy skills needed in the workplace by—

(A) providing adult literacy and other basic skills services and activities;

(B) providing adult secondary education services and activities which may lead to the completion of a high school diploma or its equivalent;

(C) meeting the literacy needs of adults with limited English proficiency;

(D) upgrading or updating basic skills of adult workers in accordance with changes in workplace requirements, technology, products, or processes;

(E) improving the competency of adult workers in speaking, listening, reasoning, and problem solving; or

(F) providing education counseling, transportation, and nonworking hours child care services to adult workers while they participate in a program funded under paragraph (2)(A).

(4) An aplication to receive funding for a program out of a grant made to a partnership under this subsection shall—

(A) be submitted jointly by—

(i) a business, industry, or labor organization, or private industry council; and

(ii) a State educational agency, local educational agency, institution of higher education, or school (including an area vocational school, an employment and training agency, or community-based organization);

(B) set forth the respective roles of each member of the partnership;

(C) contain such additional information as the Secretary may require, including evidence of the applicant's experience in providing literacy services to working adults;

(D) describe the plan for carrying out the requirements of paragraph (3); and

(E) provide assurances that the applicant will use the funds to supplement and not supplant funds otherwise available for the purpose of this section.

(B) GRANTS TO STATES.—(1) Whenever in any fiscal year, appropriations under subsection (c) are equal to or exceed $50,000,000, the Secretary may make grants to States which have State plans approved by the Secretary under section 306 to pay the Federal share of the cost of adult education programs which teach literacy skills needed in the workplace through partnerships between—

(A) business, industry, or labor organizations, or private industry councils; and

(B) State educational agencies, local educational agencies, institutions of higher education, or schools (including employment and training agencies or community-based organizations).

(2) Grants under paragraph (1) may be used—

(A) to fund 70 percent of the cost of programs which meet the requirements of paragraph (4);

(B) for administrative costs incurred by State educational agencies and local educational agencies in establishing programs funded under subparagraph (A); and

(C) for costs incurred by State educational agencies in obtaining evaluations described in paragraph (3)(A)(iii).

(3) A State shall be eligible to receive its allotment under subsection (c) if it—

(A) includes in a State plan submitted to the Secretary under section 306 a description of—

(i) the requirements for State approval of funding of a program;

(ii) the procedures under which applications for such funding may be submitted; and

(iii) the method by which the State shall obtain annual third-party evaluation of student achievement in, and overall effectiveness of services provided by, all programs which receive funding out of a grant made to the State under this section; and

(B) satisfies the requirements of section 306(a).

(4) The program requirements set forth in subsection (a)(3), shall apply to the program authorized by this subsection.

(5) An application to receive funding for a program from a grant made to a State under paragraph (1) shall contain the same information required in subparagraphs (A) through (E) of subsection (a)(4).

(6) If a State is not eligible for a grant under paragraph (1) of this subsection, the Secretary shall use the State's allotment under paragraph (7) to make direct grants to applicants in that State who are qualified to teach literacy skills needed in the workplace.

(7)(A) The Federal share of expenditures for programs in a State funded under this subsection shall be paid from a State's allotment under this paragraph.

(B) From the sum appropriated for each fiscal year under subsection (c) for any fiscal year in which appropriations equal or exceed $50,000,000, the Secretary shall allot—

(i) $25,000 to each of American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands; and

(ii) to each remaining State an amount which bears the same ratio to the remainder of such sum as—

(I) the number of adults in the State who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools in the State, bears to

(II) the number of such adults in all States;

except that no State shall receive less than $125,000 in any fiscal year.

(C) At the end of each fiscal year, the portion of any State's allotment for that fiscal year which—

(i) exceeds 10 percent of the total allotment for the State under paragraph (2) for the fiscal year; and

(ii) remains unobligated;

shall be reallocated among the other States in the same proportion as each State's allocation for such fiscal year under paragraph (2).

(C) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $30,000,000 for the fiscal year 1988, $31,500,000 for the fiscal year 1989, and such sums as may be necessary for the fiscal year 1990 and each succeeding fiscal year ending prior to October 1, 1993, to carry out the provisions of this section.

(2) Amounts appropriated under this subsection shall remain available until expended.

ENGLISH LITERACY PROGRAM GRANTS

SEC. 318. (a) GRANTS TO STATES.—(1) The Secretary may make grants to States which have State plans approved by the Secretary under section 306 for the establishment, operation, and improvement of English literacy programs for individuals of limited English proficiency. Such grants may provide for support services for program participants, including child care and transportation costs.

(2) A State shall be eligible to receive a grant under paragraph (1) if the State includes in a State plan submitted to the Secretary under section 306 a description of—

(A) the number of individuals of limited English proficiency in the State who need or could benefit from progams assisted under this chapter;

(B) the activities which would be undertaken under the grant and the manner in which such activities will promote English literacy and enable individuals in the State to participate fully in national life;

(C) how the activities described in subparagraph (B) will serve individuals of limited English proficiency, including the qualifications and training of personnel who will participate in the proposed activities;

(D) the resources necessary to develop and operate the proposed activities and the resources to be provided by the State; and

(E) the specific goals of the proposed activities and how achievement of these goals will be measured.

(3) Grants under this section shall be available for not more than 3 years. The Secretary may terminate a grant only if the Secretary determines that—

(A) the State has not made substantial progress in achieving the specific educational goals set out in the application; or

(B) there is no longer a need in the State for the activities funded by the grant.

(b) SET-ASIDE FOR COMMUNITY-BASED ORGANIZATIONS.—A State that is awarded a grant under subsection (a) shall use not less than 50 percent of funds awarded under the grant to fund programs operated by community-based organizations with the demonstrated capability to administer English proficiency programs.

(c) REPORT.—A State that is awarded a grant under subsection (a) shall submit to the Secretary a report describing the activities funded under the grant for each fiscal year covered by the grant.

(d) DEMONSTRATION PROGRAM.—The Secretary, subject to the availability of funds appropriated pursuant to this section, shall directly, and through grants and contracts with public and private nonprofit agencies, institutions, and organizations, carry out a program—

(1) through the Adult Education Division to develop innovative approaches and methods of literacy education for individuals of limited English proficiency utilizing new instructional methods and technologies; and

(2) to designate the Center for Applicable Linguistics of the Office of Education and Improvement as a national clearinghouse on literacy education for individuals of limited English

proficiency to collect and disseminate information concerning effective approaches or methods, including coordination with manpower training and other education programs.

(e) EVALUATION AND AUDIT.—The Secretary shall evaluate the effectiveness of programs conducted under this section. Programs funded under this section shall be audited in accordance with chapter 75 of title 31, United States Code.

(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $25,000,000 for the fiscal year 1988, $26,300,000 for the fiscal year 1989, $27,600,000 for the fiscal year 1990, $29,000,000 for the fiscal year 1991, $30,500,000 for the fiscal year 1989, and $32,000,000 fo the fiscal year 1993 to carry out this section.

(2) Funds appropriated pursuant to this section shall remain available until expended.

(3) Funds appropriated under this subsection may be combined with other funds made available for the State by the Federal Government for literacy training for individuals with limited English proficiency.

(4) Not more than 10 percent of funds available under this section shall be used to carry out the purposes of subsection (d).

GENERAL EDUCATION PROVISIONS ACT

SHORT TITLE; APPLICABILITY; DEFINITIONS; APPROPRIATIONS

SEC. 400. (a) This title may be cited as the "General Education Provisions Act."

* * * * * * *

PART A—EDUCATION DIVISION OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

THE EDUCATION DIVISION

SEC. 401–404. * * *

SEC. 405(a)–(d) * * *

[(e)(1) In addition to the other responsibilities of the Office under this section, the Office shall carry out, by grant or cooperative agreement with a nonprofit educational organization, a National Assessment of Educational Progress which shall have as a primary purpose the assessment of the performance of children and young adults in the basic skills of reading, mathematics, communication, and other subjects and skills. Such a National Assessment shall—

[(A) collect and report at least once very five years data assessing the performance of students at various age or grade levels in each of the areas of reading, writing, and mathematics;

[(B) report periodically data on changes in knowledge and skills of such students over a period of time;

[(C) conduct special assessments of other educational areas, as the need for additional national information arises;

[(D) include in assessment activities information on special groups of individuals;

[(E) provide technical assistance to State educational agencies and to local educational agencies on the use of National Assessment objectives, primarily pertaining to—

[(i) the basic skills of reading, mathematics, and communication, and

[(ii) on making comparisons of such assessments with the national profile (including special population profiles) and change data developed by the National Assessment; and

[(F) with respect to each State which voluntarily participates in accordance with paragraph (5), provide a statement of information collected by the National Assessment for each such State.

[(2)(A) The organization through which the Office carries out the National Assessment shall be responsible for overall management of the National Assessment. Such organization shall delegate authority to design and supervise the conduct of the National Assessment to an Assessment Policy Committee, established by such organization. The Assessment Policy Committee shall be composed of—

[(i) five members appointed by the organization of whom two members shall be representatives of business and industry and three members shall be representatives of the general public; and

[(ii) fourteen members appointed by the organization from the categories of membership specified in subparagraph (B).

(B) Members of Assessment Policy Committee appointed in accordance with subparagraph (A)(ii) shall be—

[(i) one chief of State school officer

[(ii) two State legislators;

[(iii) two school district superintendents;

[(iv) one member of a State board of education;

[(v) one member of a local school board;

[(vi) one Governor of a State;

[(vii) four classroom teachers;

[(viii) one elementary school principal; and

[(ix) one secondary school principal.

[(C) The Assistant Secretary shall serve as an ex officio member of the Assessment Policy Committee. The Assistant Secretary shall also appoint a member of the Council to serve as nonvoting member of the Assessment Policy Committee.

[(D) Members appointed in accordance with subparagraph (A) (i) and (ii) shall be appointed for terms for three years on a staggered basis.

[(3) The Assessment Policy Committee established by paragraph (2) shall be responsible for the design of the National Assessment, including the selection of the learning areas to be assessed, the development and selection of goal statements and assessment items, the assessment methodology, the form and content of the reporting and dissemination of assessment results and studies to evaluate and improve the form and utilization of the National Assessment. The appropriateness of all cognitive, background, and attitude items developed as part of the National Assessment shall be the re-

sponsibility of the Assessment Policy Committee. Such items shall be subject to review by the Department of Education and the Office of Management and Budget for a single period of not more than sixty days.

[(4) Each learning area assessment shall have goal statements devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, subject matter specialists, local school administrators, parents, and members of the general public. All items selected for use in the assessment shall be reviewed to exclude items which might reflect racial, sex, cultural, or regional bias.

[(5) Participation in the National Assessment by State and local education agencies selected as part of a sample of such agencies shall be voluntary.

[(6) The Secretary shall provide for a periodic review of the National Assessment. This review shall provide an opportunity for public comment on the conduct and usefulness of the National Assessment and shall result in a report to the Congress, the President, and the Nation on the findings and recommendations, if any, of the review. The Secretary shall consider the findings and recommendations in designing the competition to select the organization through which the Office carries out the National Assessment.]

[(f)](*e*)(1) There are authorized to be appropriated to carry out this section and section 406 of this Act, $72,231,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

(2) The Secretary may not enter into a contract for the purpose of regional educational laboratories under subsection (d)(3)(A)(i) for a period in excess of five years.

(3) Not less than 95 per centum of funds appropriated pursuant to this subsection for any fiscal year shall be expended to carry out this section through grants, cooperative agreements, or contracts.

(4) When more than one Federal agency uses funds to support a single project under this section, the Office may act for all such agencies in administering those funds.

[(g)](*f*)(1) In each fiscal year for which the total amount appropriated to carry out this section and section 406 of this Act equals or exceeds the total amount appropriated for fiscal year 1986 to carry out such sections—

(A) not less than $17,760,000 shall be available in each fiscal year to carry out subsection (d)(4)(A)(ii) of this section (relating to centers);

(B) not less than $17,000,000 shall be available in each fiscal year to carry out subsection (d)(4)(A)(i) of this section (relating to labs);

(C) not less than $5,700,000 shall be available in each fiscal year to assist the education resources information centers pursuant to subsection (d)(3)(A) of this section;

(D) not less than $4,000,000 shall be available in each fiscal year to carry out subsection (e) of this section (relating to the National Assessment of Educational Progress);

(E) not less than $8,750,000 shall be available in each fiscal year to carry out section 406 of this Act (relating to the Center for Educational Statistics); and

(F) not less than $500,000 shall be available in each fiscal year to carry out subsection (d)(4)(A)(iii) of this section (relating to field initiated research).

(2) If the sums appropriated for any fiscal year are less than the amount required to be made available under subparagraphs (A) through (F) of paragraph (1), then each of the amounts required to be made available under such subparagraphs shall be ratably reduced. If additional amounts become available for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced.

Sec. 406 (a)–(g) * * *

(h)(1) With the advice of the National Assessment Governing Board established by paragraph (5)(a)(i), the Secretary shall carry out, by grant, contract, or cooperative agreement with qualified organizations, or consortia thereof, a National Assessment of Educational Progress. The purpose of the National Assessment is the assessment of the performance of children and young adults in the basic skills of reading, mathematics, science, writing, history, geography, and civics.

(2)(A) The National Assessment shall provide a fair and accurate presentation of educational achievement in skills, abilities, and knowledge in reading, writing, mathematics, science, history, geography, and civics, and shall use sampling techniques that produce data that are representative on a national, regional and State basis. In addition, the National Assessment shall—

(i) collect and report data on a periodic basis, at least once every two years for reading and mathematics; at least once every four years for writing and science; and at least once every six years for history, geography, and civics;

(ii) collect and report data every two years on students at ages nine, thirteen, and seventeen and in grades four, eight, and twelve;

(iii) report achievement data on a basis that facilitates valid State-by-State comparisons;

(iv) include special assessments of achievement in other educational areas as the need arises; and

(v) include information on special groups.

(B) In carrying out the provisions of subparagraph (A), the Secretary and the Board appointed under paragraph (5) shall assure that at least one of the subject matters in each of the four and six year cycles described in subparagraph (A)(i) will be included in each two year cycle Assessment.

(C)(i) The National Assessment shall include an assessment of literacy of a nationally representative sample of out of school 17-year-olds and adults based upon a uniform standard of literacy achievement.

(ii) The Secretary and the Board established under paragraph (5) in consultation with publishers of instructional material and others with expertise in the field of literacy shall assure that a uniform standard of literacy achievement is developed.

(3)(A) The National Assessment shall not collect any data that are not directly related to the appraisal of educational performance and achievement or the fair and accurate presentation of such information.

(B) The National Assessment shall provide technical assistance to States, localities, and other parties that desire to expand the assessment to yield additional information described in paragraph (2)(A).

(4)(A) Except as provided in subparagraph (B), the public shall have access to all data, questions, and test instruments of the National Assessment.

(B)(i) The Secretary shall ensure that all personally identifiable information about students, their educational performance, and their families and that information with respect to individual schools remain confidential, in accordance with section 552a of title 5, United States Code.

(ii) Notwithstanding any other provision of the law, the Secretary may decline to make available to the public cognitive questions that the Secretary intends to reuse in the future.

(5)(A)(i) There is established the National Assessment Governing Board (hereafter in this section referred to as the "Board").

(ii) The Board shall design and supervise the conduct of the National Assessment.

(B) The Board shall be appointed by the Secretary in accordance with this subparagraph and subparagraphs (C), (D), and (E). The Board shall be composed of—

(i) two Governors or former Governors, who shall not be members of the same political party;

(ii) two State legislators, who shall not be members of the same political party;

(iii) two chief State school officers;

(iv) one superintendent of a local educational agency;

(v) one member of a State board of education;

(vi) one member of a local board of education;

(vii) two classroom teachers;

(viii) one representative of business or industry;

(ix) one curriculum planner or supervisor or testing and measurement expert;

(x) one nonpublic school administrator or policymaker;

(xi) two school principals;

(xii) one education researcher; and

(xiii) three additional members, who are representative of the general public, including parents.

The Assistant Secretary for Educational Research and Improvement shall serve as an ex officio member of the Board as a nonvoting member.

(C)(i) The Secretary and the Board shall ansure at all times that the membership of the Board is balanced fairly in terms of geographical distribution and the points of view represented and that is exercises its independent judgment, free from inappropriate influences and special interests.

(ii) In the exercise of its functions, powers, and duties, the Board shall be independent of the Secretary and the other offices and officers of the Department of Education.

(D)(i) The members of the Assessment Policy Committee, serving on the date of enactment of the National Assessment of Educational Progress Improvement Act, shall become members of the Board for the remainder of the terms of the appointment to the Assessment Policy Committee.

(ii) To complete the initial membership of the Board, the Secretary shall appoint members of the Board as necessary in the categories described in subparagraph (B) for which there are no members serving on the Assessment Policy Committee on the date of enactment of the National Assessment of Educational Progress Improvement Act. The Secretary shall appoint such members from among nominees furnished by the Governors, chief State school officers, education associations and organizations, the National Academy of Sciences, parent organizations, learned societies, and other interested parties.

(iii) As vacancies occur, new members of the Board shall be appointed by the Secretary from among individuals who are nominated by the Board. For each vacancy the Board shall nominate at least 3 individuals who, by reason of experience or training, are qualified in that particular Board vacancy.

(E) Members of the Board appointed in accordance with this paragraph shall serve for terms not to exceed 4 years which shall be staggered, as determined by the Secretary, subject to the provisions of subparagraph (D)(i). Any appointed member of the Board who changes status under subparagraph (b) during the term of the appointment of the member may continue to serve as a member until the expiration of that term.

(6)(A) In carrying out its functions under this subsection, the Board shall—

(i) select subjects areas to be assessed (consistent with paragraph (2)(A));

(ii) identify feasible achievement goals for each age and grade in each subject area to be tested under the National Assessment;

(iii) develop assessment objectives;

(iv) develop test specifications;

(v) design the methodology of the assessment;

(vi) develop guidelines and standards for analysis plans and for reporting and disseminating results;

(vii) develop standards and procedures for interstate, regional and national comparisons; and

(viii) take appropriate actions needed to improve the form and use of the National Assessment.

(B) The Board shall have final authority on the appropriateness of cognitive items.

(C) Any activity of the Board or of the organization described in paragraph (1), shall be subject to the provisions of this subsection.

(7)(A) Not to exceed 10 per centum of the funds available for this subsection may be used for administrative expenses and for expenses to carry out the functions of the Board described in paragraph (6)(A).

(B) The Board shall be considered an advisory committee for the purpose of the Federal Advisory Committee Act.

(8)(A) Participation in the National and Regional Assessments by State and local educational agencies shall be voluntary.

(B) Participation in assessments made on a State basis shall be voluntary. The Secretary shall enter into an agreement with any State which desires to carry out an assessment for the State under this subsection. Each such agreement shall contain provisions designed to assure—

(i) that the State will participate in the assessment; and

(ii) will pay from non-Federal sources or from funds paid to the State under chapter 2 of title I of this Act the non-Federal share of participation.

(C)(i) For each fiscal year, the Federal share for the purpose of clause (ii) of subparagraph (B) shall be the cost of conducting the assessment in the State minus the cost of administering the assessment at the school level for all schools in the State sample.

(ii) The non-Federal share of payments under this paragraph may be in cash or in kind.

(9)(A) The Secretary shall provide for a periodic review of the National Assessment. The review shall provide an opportunity for public comment on the conduct and usefulness of the National Assessment and shall result in a report to the Congress, the President, and the Nation on the findings and recommendations, if any, of the review. The Secretary shall consider the findings and recommendations in designing the competition to select the organization through which the Office carries out the National Assessment.

(B) The Secretary shall, not later than 6 months after the date of enactment of the National Assessment of Educational Progress Improvement Act, publish a report setting forth plans for the collection of State representative data for the 1990 assessment and plans for expanding the subjects tested to include reading, writing, science, history, geography and civics, in the 1992 and later assessments. The report shall include methods by which the results of the National Assessment of Educational Progress may be reported so that the results are more readily available and more easily understood by educators, policymakers, and the general public. The report shall be developed after consultation with educators, State education officials, members of the Board appointed under paragraph (2), and the general public.

(C) The report required by this paragraph shall be submitted to the Congress and made available to the public. The Secretary shall take such actions as may be appropriate to carry out the recommendations contained in the report.

[(h)] (*i*) For purposes of this section, the terms "United States" and "State" include the District of Columbia and Puerto Rico.

CAROL D. PERKINS VOCATIONAL EDUCATION ACT

AN ACT To strengthen and improve the quality of vocational education and to expand the vocational education opportunities in the Nation, to extend for three years the National Defense Education Act of 1958 and Public Law 815 and 874, Eighty-first Congress (federally affected areas), and for other purposes.

* * * * * * *

DISTRIBUTION OF ASSISTANCE

SEC. 202. (*a*) From the portion of the allotment of each State available for this part for each fiscal year—

(1) 10 percent of the funds available for this title shall be available for handicapped individuals;

(2) 22 percent of such funds shall be available for disadvantaged individuals;

(3) 12 percent of such funds shall be available for adults who are in need of training and retraining;

(4) 8.5 percent of such funds shall be available for individuals who are single parents and homemakers;

(5) 3.5 percent of such funds shall be available for individuals who are participants in programs designed to eliminate sex bias and stereotyping in vocational education; and

(6) 1 percent of such funds shall be made available for criminal offenders who are in correctional institutions.

(b) Funds described in clause (4) of subsection (a) shall also be available for single pregnant women.

* * * * * * *

PUBLIC LAW 92-506 92ND CONGRESS, S.J. RES. 265 OCTOBER 19, 1972

JOINT RESOLUTION

[*Repealed.*]

* * * * * * *

EDUCATION AMENDMENTS OF 1978

SEC. 1524. [*Repealed.*]
SEC. 1525. [*Repealed.*]

* * * * * * *

STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT

* * * * * * *

SEC. 312. [*Repealed.*]

* * * * * * *

SEC. 702. STATEWIDE LITERACY INITIATIVES.

SEC. 702(c)(2). [*Repealed.*]

* * * * * * *

○